

[20th March 1928]

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

II

MOTIONS ON THE BUDGET FOR 1928-29.

DEMAND XI—GENERAL ADMINISTRATION—MISCELLANEOUS.

* The hon. Mr. T. E. MOIR:—"Mr. President, on the recommendation of His Excellency the Governor I move

'that the Government be granted a sum not exceeding Rs. 8.17 lakhs under General Administration—Miscellaneous.'"

* The hon. the PRESIDENT:—"I think the House is ready for a vote on the demand. The question is that the Government be granted a sum not exceeding Rs. 8.17 lakhs under General Administration—Miscellaneous."

The demand was put to vote and carried and the grant made.

DEMAND XII—GENERAL ADMINISTRATION—MINISTERS AND CIVIL SECRETARIATS—TRANSFERRED.

* The hon. the PRESIDENT:—"This demand will be closed before lunch."

* The hon. Dr. P. SUBBARAYAN:—"Mr. President, Sir, I move

'that a sum not exceeding Rs. 4.55 lakhs be granted to Government under Demand XII—General Administration—Ministers and Civil Secretariats—Transferred.'"

* Mr. C. V. VENKATARAMANA AYYANGAR:—"Sir, I move

'that the allotment of Rs. 1,74,000 for pay of officers be reduced by Rs. 100', to express want of confidence in the present Ministry.

"First of all so far as the notice paper is concerned I am in very good company. Diwan Bahadur M. Krishnan Nayar, Diwan Bahadur S. Kumaraswami Reddiyar and Mr. T. K. Chidambaranatha Mudaliyar have taken the lead. Coming to the last name in the list the hon. Member, Mr. Muthiah Mudaliyar, also has given a motion for the cut. On this motion we intend to speak on the whole question of the present Ministry. I myself will deal with a few aspects of the question, leaving to my friends on both sides of the House to discuss the other points. The present cut is for the purpose of expressing want of confidence in the present Ministry. We all know that so far as the present Ministry is concerned, its Chief Minister, if that term is allowable, Dr. Subbarayan has had the unique honour of having been the Chief Minister in the Ministry that was going on till a few days ago. I shall avoid all personalities when dealing with the present Ministry. So far as Dr. Subbarayan is concerned there are two important points with which I will have to deal. But before that I shall preface by saying that we who are entirely against diarchy want to see that diarchy is put to an end and we want to discuss that also in this cut. Then there is another school of thought, which though not for the entire removal of diarchy, are at present for the removal of diarchy as it exists here. We as a party have been saying that diarchy is absolutely useless. The Justice Ministry who were in power for six years were of opinion in the beginning that diarchy

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was workable; but after the end of that period they also came to the conclusion that diarchy was not workable at all. After the last election that party met at Coimbatore, which place has become famous in this matter also (laughter), and passed a resolution that diarchy was unworkable and that they should not accept office; but curiously enough they seem to say now that though they would not accept the Ministry, there is nothing to prevent them from supporting a Ministry that is in power. It is just like saying 'murder is a very bad thing; I will not do it; but I will give the instruments of murder to some of those who will commit the murder', and what is more, 'I will support them in a court of law.' It seems to me that their proposition is, if I may be allowed to say so, absurd and does not sound reasonable coming from no less a person than the Raja of Panagal, who is a very able and intelligent person, for I have known him from the time we were studying together in the B.A. class in the Presidency College. I hope he will use his ingenuity not for working wrong things but for clearing the points of view that diarchy is unworkable whether it is worked by A, B, or C. If the Justice Party say now, 'though our leaders were not able with all their ability and experience to work diarchy, though we will not accept diarchy, we will ask others to work them and really do everything in favour of others working this diarchy' then, I submit, their position is nothing short of absurdity. As to the next point, even supposing some are in favour of diarchy, as a whole, the present diarchic administration in the Madras Presidency seems to be, if I may say so, so stinking that, no one should honestly support diarchy at present. It is in this connexion, Sir, that I will have to say a few things regarding the Chief Minister. The Chief Minister took up the Ministry at a time when the elections had declared that the Justice Party were not popular with the voters in this Presidency. Rumour had it, Sir, that they were going to have a coalition Ministry but later on we heard that to Dr. Subbarayan such a Ministry would not be acceptable. Whatever the reasons may be, Dr. Subbarayan set up his own Ministry and worked it. When a vote of no confidence was moved by the Justice Party first in the last Council we were asked to vote in favour of it; but we remained neutral. Because we thought that there was no use of killing one Ministry if immediately after it goes another Ministry took its place and we had no guarantee then that the Justice Party would not accept the Ministry. We have been saying that we are against diarchy and we will go to any length at any time if we can successfully cut at the root of diarchy. After the Coimbatore resolution was passed by the Justice Party to the effect that Diarchy was unworkable and that it would benefit none, we were prepared to join that party and as a matter of fact both parties voted together in the no-confidence motion brought after the Coimbatore resolution though we were not able to repeal the Ministry.

"If we had known that the Justice Party were not going to be Ministers themselves but were going to support by their vote and speech another Ministry we would not have fallen in with them in that motion. We took their resolutions to be sincere and thought that they would co-operate with us in killing diarchy and we as a party voted with them on the no-confidence motion by the end of last year. The Chief Minister knew that he was there in spite of the vote of both the parties. Yet he created an impression that by and by he would abide by the decision of the House in

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all matters and there would be smooth working. But the first great surprise he sprung upon us this year was with reference to the Simon Commission. The House passed the resolution against co-operation with the Simon Commission, with the support of the leaders of the Justice Party and other parties. And the Chief Minister ought to have agreed to work the Ministry subject only to that resolution of the House. But we all know that in spite of that resolution he made a public statement that whatever may be the resolution of the House he would stick to his position and co-operate with the Simon Commission. We thought that this was a sufficient ground to express our want of confidence in the Chief Minister and we tabled a motion of no-confidence in him. How the vote on that question went, and how among those who stood for the motion were the Raja of Panagal and some other leading members of the Justice Party—”

* Rao Bahadur C. S. RATNASABAPATHI MUDALIYAR :—“On a point of order, Sir, I wish to know whether this motion would apply to the present Ministry. On the day when this motion was given notice of, this Ministry was not in existence; there was another Ministry and my submission is that the motion should refer to that Ministry and not to the present one.”

* The hon. the PRESIDENT :—“It is true that notice of this motion was given before 6th March and the present Ministry came into existence only after that date. But I did not want to be very technical and say that no motion can be moved in the budget against this Ministry. For, if I were to insist on such technicalities there will be no opportunity for the Opposition to express its opinion regarding the present Ministry. The present Ministry have taken office during the budget time with the full consciousness of defending themselves and commanding the confidence of the House if they can.”

* Mr. C. V. VENKATARAMANA AYYANGAR :—“The present Ministry led by Dr. Subbarayan is responsible for what he has done so far; because they have taken office with the full knowledge of what he has done on some important matters. In our vote of no-confidence against the first Minister for his attitude towards the Simon Commission we were supported by the Leader of the Justice Party. So far at least as the first Minister is concerned the position remains the same and it would indeed be surprising if the hon. Member, the Raja of Panagal, would not support us. I fully believe that in spite of rumours to the contrary we will have the full support of the Raja of Panagal whatever may be done by his followers. Because only a few days ago he was one of those who stood in favour of the no-confidence motion against the first Minister. Therefore, if this House has got any feeling of consistency, any self-respect, and wants to stick to the resolution deliberately passed by a majority of the House, the House must vote for this resolution so far as the first Minister is concerned. Besides his attitude towards the Simon Commission which is in conflict with the resolutions of the House, he took the whole House by surprise—of course the European portion is excluded—by reading a note on excise policy, which he admitted was prepared by the Secretary to the department, which showed that what Government have been saying so far on this question is absurd, and that the commitments made by Sir Patro, and the policy announced by Diwan Bahadur Arogyaswami Mudaliyar as a member and on behalf of his Government were thrown to the winds. He said that the policy of the Justice Party

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during the six years preceding the last election was without jurisdiction and that they were only giving false hopes. The hon. Dr. Subbarayan has been a Member of the House all this time. He was a member of the Justice Party as a Council Secretary. All this time he had been keeping quiet. He did not raise his voice even when the hon. Member, Diwan Bahadur Arogyaswami Mudaliyar, was enunciating his policy as the policy of the Ministry of which he was the chief. At that time we did not know that joint responsibility of the Ministers did not exist. But having been a party to all these undertakings, he now rises in his place and says 'All that was wrong; we were going through some farce when we were dealing with the question of prohibition. This Government or this Ministry has absolutely nothing to do with that. We may of course give a licence here and there but we cannot do anything substantial with regard to the question of prohibition.' I ask my friends of the Justice Party who stood up in support of the motion of no confidence in the Minister before the statement was made, whether their confidence in him has been revived. If so, we should like to know the reasons why.

"So far as the other two Ministers are concerned we say that we have no confidence in them also as members of the present Ministry. The two Ministers who were in their places were compelled to resign, or in other words practically dismissed from their offices, simply because they refused to do anything in contravention of the decision of the House regarding the Simon Commission. Therefore the two new Ministers must have given an undertaking to the Governor that they would co-operate with the Simon Commission. We have the unchallenged statement of one of the ex-Ministers to the effect that their resignation was forced upon them on account of the fact that they refused to co-operate with the Simon Commission. We have also the uncontradicted statement of one ex-Minister that the present Governor and the Government consider that anything done against the Simon Commission is done against the Government. Therefore we are right in presuming that the two Ministers who assumed charge of their offices after this statement, must have agreed to co-operate with the Simon Commission whatever might have been their vote in this House previously on this question. As regards the statement of the Chief Minister regarding the excise policy I want to know whether the second Minister, the hon. Mr. Muthiah Mudaliyar, who is now in charge of excise agrees with the Chief Minister on this point. I ask the Justice Party and the Independent Party whether they subscribe to the statement that excise cannot in any way be dealt with by us, by this Ministry or by even the all-powerful Finance Member of the Madras Government. I do not at the present moment want to go into the question of nominations and other past events, but I shall confine myself only to the attitude of the Ministry towards the Simon Commission and the statement regarding excise policy.

"The two new Ministers have been practically chosen from the Congress Party. No doubt we all know that they have become renegades of that party. I want to ask the Madras Governor and the Madras Government, as well as the European Members of the House who attach importance to the integrity of the word—I in all solemnity ask—whether it is desirable to allow persons to make solemn pledges and then throw them to the winds.

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“What respect can any one have to the word of such people? The non-official Europeans are all of them business men and I know they attach much weight to every word that is spoken, not necessarily written or subscribed by signature. Such being the case, is it fair that His Excellency the Governor and his Government should have allowed themselves to co-operate with such persons? I specially refer to Mr. Muthiah Mudaliyar. He has since become ‘Hon’ble’ with a capital ‘H’. I am asking him whether it is fair that he should co-operate with this Government. Many of us have been saying that this Government have done so many things dishonourable. As regards one question in Coimbatore, I pointed out two days ago that they have been immoral and dishonest. But this is the first time in the history of the Government in any country that the head of the Government and his advisors should solemnly abet breaking of solemn pledges taken by a Member and permit him to be co-operating with them and carrying on the responsible work of the Government, all the time being known by all to have broken his solemn pledges. I ask my hon. Friends who want to support this Ministry whether they can, consistently with self-dignity, consistent with feelings of morality and honesty, allow such things to go on and what weight they attach to the promises made. Let not the Government and this Council drive the public to that unfortunate position of considering all election pledges as useless by people being enabled to take up responsible position and being called ‘Hon’ble’ when they are alleged and proved to have broken their pledges. Such a thing can never take place in England. I appeal to my European friends. Will any Member elected as belonging to a party in England, simply because he changes his views, be allowed to continue in his seat unless he resigns and seeks re-election? Here is one Member now on the other side carrying on the Government of Madras who solemnly signed with ink, gave his address, mentioned the district for which he would stand and undertook to abide by the decision of the Cawnpore Congress and later Congresses. One of the resolutions of the Cawnpore Congress was not to take up ministerial appointments. A High Court vakil cannot plead ignorance. He cannot say that he signed from ignorance or compulsion. He has signed a number of vakalats including those given by eminent persons like the Raja of Ramnad. The High Court has over and again said that the learned members of the profession should be above suspicion. I ask whether the Madras Government would permit persons to break their pledges. This is not a personal question. It is a question dealing with all elections hereafter. Some nominated hon. Members might have given pledges privately to His Excellency the Governor, to the Government, to Mr. Slater and to persons in his position. But here is a solemn public pledge on which many members withdrew on his behalf. After succeeding in the election and after having tried to be leader of the party I ask my hon. Friend whether it is fair for him to accept the Minister’s post in this Presidency. I am sorry I have to refer to that matter. But this is nothing personal. This matter will recur very often in the future. I expect the Madras Government to support our views if they are capable of doing it. So far as the pledge is concerned, it is a solemn one and it is sacred whoever might have made it. It might have been made while the Member was in the Opposition benches. But it may happen in any party. Nominated Members have stated over and over again that there are some reasons, probably they have given pledges privately to them, for voting with

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the Government. I have not said a word against it. If they accepted nomination, and, if, either impliedly or expressly, they said that they would vote with the Government I will bow to their pledge so long as they continue to be nominated Members. If private understandings and undertakings are to be dealt with as sacred, how are we to deal with public pledges? I therefore appeal to my hon. Friends themselves to reconsider their position if they will kindly do so. I appeal to the House and to the whole country at large to see that such solemn pledges are not allowed to be broken and that the Government do not take any part in such matters. So far as the vote on this motion is concerned, it does not matter at all. We have been clearly told that, so far as the nominated members are concerned, their votes are not theirs at all. There can be nothing more outspoken than the speeches recently made by Mr. Swami Sahajanandam and a few others. I am sorry that Mr. Slater and some other Members here did not quite understand all that was said by them. They said whatever our honest convictions may be we have to vote with the Government under practical compulsion. Mr. Swami Sahajanandam said 'when I gave my vote for Excise cut என் வயறு எறிந்தது, my belly burnt'. Do the Government and the hon. the Chief Minister consider that votes given by such persons are of any use so far as this question of confidence in the Ministers is concerned? I say nothing against them; they are bound by private pledges. I shall wait and see how Mr. Ari Gowder, Mr. Davis and some other friends who are pledged to Excise reform would vote to-day on the no-confidence motion when the hon. the Chief Minister has declared that 'All that has been promised and done on this matter are wrong. Neither we nor this Council have any power'. I appeal to them to vote with us so that there can be no doubt whatever about their point of view. This is a proposition on which we should vote as one body. If some hon. Members find it impossible to vote for the proposition on account of some pledges or other reasons, I implore them, I beg of them, to be neutral. Some hon. Members such as Messrs. Muniswami Pillai and Swami Sahajanandam have stated that they were not free to vote as they liked. We have clearly told the House that their votes are useless. I appeal to them not to vote either way for this proposition but to remain neutral. The Justice party voted for the boycott of the Simon Commission on a previous occasion. If they go against it now it must be on account of some good reasons. I leave the matter to them and to their conscience."

* Mr. SAMI VENKATACHALAM CHETIL:—"Mr. President, Sir, I rise to second the motion moved by my hon. Friend from Coimbatore, Mr. Venkataramana Ayyangar. I do so not merely in pursuance of the policy of my party to destroy diarchy, but also in regard to the specific acts of the Chief Minister, to the principle on which the composition of the present Ministry is based. I shall first deal with the hon. the Chief Minister, Dr. Subbarayan. Of late he has earned unenviable notoriety for disregarding and flouting the views and resolutions of this Council. We are aware that only very recently this House passed the resolution by an overwhelming majority that it should have nothing to do with the Simon Commission as at present constituted. Though Dr. Subbarayan had made his position quite clear towards the Simon Commission before the resolution was passed in this House, it was confidently expected by this House that the Minister whose

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tenure of office existed upon the support of the majority in this House would naturally follow the lead given to him by the House. As a Minister who is presumed to have a majority in this House, he not only failed to give a lead to his own party as to what the party should do in respect of this particular question concerning the Government of this country, but also flouted the lead given to him not only by a large section of his party but also by a majority of the House.

“Barring that there is just another matter on which this House may be justified to take very serious note of his conduct. I am referring to his remarks in justification of the orders passed by the Chief Presidency Magistrate in the City of Madras under section 144 on some of the Congress party leaders. Sir, it was no concern of Dr. Subbarayan to have talked anything about it when prudence must have dictated silence. He began to express his views in justification of that atrocious order. I should very much like to remind my hon. Friend, Dr. Subbarayan, what he said in November 1923 in answer to certain unsympathetic remarks made by the late Sir P. Tyagaraya Chettiar with reference to political prisoners. My hon. Friend, Dr. Subbarayan, said quite unexpectedly ‘I think it inhuman that persons who sacrificed much for the sake of the interests of the country should be treated as dacoits. I must enter my emphatic protest against such sentiment.’ After giving expression to these inspiring words he crossed the floor of the House that morning. He not only crossed the floor of the House but also voted against the Minister. Such a gentleman who felt that any such remark that may be passed against a political worker was inhuman has now gone to the length of justifying the orders passed against political workers who ventilated their grievances. I do not know to what this unexpected change of mentality he has undergone is due to. I am constrained to think that shoving responsibility on a set of persons with no following or policy has very much to do with the statement. The House having thrust upon him very many rights instead of expecting corresponding duties from him have naturally given him courage to set at naught the popular will.

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“Mr. President, Sir, he is an aristocrat by birth and by association and by training he is not a democrat. And such a man was entrusted with the power of the governance of this Presidency so far as the Transferred departments are concerned. He has absolutely no obligation to his party of which there are very few and these naturally made him extremely rash in respect of his treatment of national questions. Otherwise it is difficult to explain his views on and his defence of the excise policy. Sir, his defence revealed the skirmishes that were going on in the Ministerial nursery when my friends Messrs. Ranganatha Mudaliyar and Arogyaswami Mudaliyar were with him. These two gentlemen have resigned and Dr. Subbarayan has gone to a fit of desperation. Therefore I am not inclined to find fault with Dr. Subbarayan as I am inclined to find fault with this House itself. Sir, we have had Dr. Subbarayan's mentality nakedly exposed to us. We cannot expect him to change even if you should entrust the responsibility of the Transferred departments in his hands or not. If, with all his faults, you are willing to entrust in these men the governance of these subjects, I do not know why Dr. Subbarayan should be found fault with. I therefore make this appeal to this House not to consider this question as a matter between Dr. Subbarayan and this House but as a matter concerning the governance

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of this country. There is no use speaking in whispers about Dr. Subbarayan. Sir, we have made the Ministers we have not known, or rather whose views we have not known. Then what is the use of making complaints behind his back and not vote against him when the matter comes up to be dealt with by this House.

“But apart from these personal defects, we shall examine the constitutional aspect of the question. Dr. Subbarayan when he originally assumed the office of Minister had no following. But subsequently after he became Minister he was able to gather a few stray hon. Members of this Legislative Council. With these Members he got on for some time. We find to-day that a large section of that incoherent group has crossed the floor and walked into the opposition lobbies. So even this dim vestige of a party following has disappeared. Therefore if he should get any support, it must be from across the table and not from behind his seat. According to my calculation, there are not more than half a dozen elected Indian Members behind him. Yet it is a surprise to me he was again honoured by an invitation from His Excellency the Governor to form another Ministry. Having been thus patronized by His Excellency, but neglected by gentlemen whom he expected to support him, he took as his Colleagues Messrs. Muthiah Mudaliyar and Seturatnam Iyer. I should say, Sir, that the formation of this Ministry is a clear example of constitutional impropriety. Ministerial office I have never known being the price for loyalty to the Executive Government, nor a plum for those who desert their own party, nor a place where patronage could be dispensed. I cannot substantiate my statement better than by quoting my hon. Friend, Sir, A. P. Patro when he laid down the essential conditions for the formation of a Ministry. My hon. Friend has put down as the first essential condition—for the successful working of the scheme depends upon the existence of three main conditions—an elected majority for the Ministry. May I ask, in all humility, Sir Patro whether Dr. Subbarayan has an elected majority behind him? The office of the Ministry also presumes that the holder possesses an open following not a covert following, with a clear cut out programme and policy. I venture to say that all these three are conspicuous by their absence in the case of Dr. Subbarayan's Ministry. In the formation of this Ministry therefore all these essential conditions have been ruthlessly ignored. We find three gentlemen to-day chosen from different quarters of the House, one following a policy which is at variance with the rest of the three Ministers. Therefore there seems to be a good deal of diversity and conflict in this seeming unity. Self-interest is the only unity of action between these three. Sir, to allow the Ministry to continue is doing the greatest harm to the constitution, and reducing this House to become a consenting party to the deprivation of its own influence and power which this House is expected to exercise not only over the Transferred departments but also over the Reserved side.

“Then, Sir, to quote my hon. Friend, Mr. Ranganatha Mudaliyar, he said that the Minister was to be selected from a party which commanded the confidence of the House. My hon. Friend recognized it when it was too late. Sir, it is a truism which should hold good in any constitution. Has this principle been recognized in the formation of the present Ministry? We see it is not so. The first Minister lost the confidence and was deserted

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by his own party men, and by his conduct in this House and outside he lost the popular sympathy. The second Minister was returned on a Congress ticket pledged to non-acceptance of office. He then went out of our party with a few friends. He criticised our action in very strong terms when we remained neutral on the no-confidence motion brought forward by my hon. Friend Mr. Muniswami Naidu. Then, Sir, he used a simile, a significant one, that we were Sanyasins vowed to celibacy refusing to marry (laughter). Under that simile we are Sanyasins and we continue to be Sanyasins. Mr. President, I am therefore very much disappointed that my hon. friend Mr. Muthiah Mudaliyar allowed himself to be kidnapped by my friend Dr. Subbarayan, even deserting a few friends who burnt their boats with our party.

"Another question arises which it is desirable that I should mention. My hon. Friend, the Chief Minister, has now perhaps accepted the principle of joint responsibility by accepting the invitation of His Excellency the Governor to form a Ministry. Even after the Ministerial policy in respect of Excise had been propounded by Dr. Subbarayan, my hon. Friend Mr. Muthiah Mudaliyar has joined him, even though while he was only an ordinary Member of this Council, he expressed himself very strongly in favour of prohibition. I would like to know if, in pursuance of the joint responsibility which the Chief Minister has propounded, he is a willing party to the policy laid down by Dr. Subbarayan. If that be so, is he going to be allowed to ride rough-shod over this legislature and say that Excise is a Central subject?

"My hon. Friend Mr. Seturatnam Ayyar has got the virtue of not coming into the purview of this House by rigid silence all throughout the sessions of this Legislative Council from the beginning of this term. But he was my Colleague during the last Legislative Council. I sat with him in a seat in that bench over there. I know his views, or rather, how his views have so radically changed. I am only surprised at the conception of Ministerial responsibility of my hon. Friend Mr. Seturatnam Ayyar. Sir, this is not a theatrical stage. It is more than that. There is some responsibility. He cannot always depend upon the promptings of those behind him.

"In connexion with the formation of this Ministry, it is said, Sir, that His Excellency the Governor had the assistance of my hon. Friend the Raja of Panagal. I cannot believe, Sir, how he can go back upon what he had himself said.

"Then my hon. Friend the Finance Member once said, Sir, 'I know this, that in politics there is always except for those who refuse to utilize it, a *locus penitentiae*. And I hope that the Justice Party, irrespective of whether it is out of office or in office, will not refuse to tread once again that course of constitutional progress which it followed so long and so faithfully.' Sir, this statement of the hon. the Finance Member had the fullest fructification in that the hon. the Raja Sahib and his party men intend acting accordingly. But we do not know how far it will be sound now from the nature of the commitment of their attitude towards this Ministry. I do not want to irritate them by my remarks but shall merely quote from the speeches and the sentences which they themselves have uttered on the

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floor of this House. Let me begin first with my hon. Friend Mr. Ramachandra Reddi whose support as seconder to my motion was of unique importance during the last time. He said 'The Leader of the Opposition has dealt at length with the position of the Ministers in the diarchic system. I can only add to it by saying that the diarchic system is bad enough and the administration of the present Ministers under the diarchic system is worse still'. And again, 'We are supporting this motion just to throw out diarchy which has been pronounced to be very very unsatisfactory and unworkable. From all parts of the House, it has been pronounced many a time, and the House has accepted it, though not the Government, in all its bearings. We want to say that it is only the mildest demonstration that we can show just before the Royal Commission will sit in judgment to see what Reforms are to be given to this country, and the Opposition or the country cannot but support such a motion as this. If the Ministers and the supporters of the Ministers cannot appreciate the motive behind this resolution, I am of opinion, Sir, that we who are fighting for Swaraj cannot justify our position, and we can rather get out of politics altogether and leave everything to be Reserved Half or the Bureaucracy to do as they wish.' (Hear, hear.)

"Again, Sir, 'But from their advantageous position as Ministers, they are patting on the back of some people and getting some support. Is that not showing patronage and favouritism, which has been so much criticized before? It is high time that they rectify their ways and the only rectification possible under the present conditions is to walk into the opposition once more'. Again, Sir, I cannot resist the temptation of quoting in extenso. The promises are remaining as promises and their realization seems as far away as before these circumstances, and from what could be gathered from the administration, I am quite sure that with a minority of elected members, they are not able to do anything by way of getting adequate powers from the Government or by way of making their own position stronger so that they may be able to do more good to the country. Weak as they are, and autocratic as they are, I think they are quite unsafe to be there, with such a small number of elected members to help them. Then, Sir, you would remember, Mr. President, that during the last budget discussion when the Congress party decided to remain neutral my hon. Friend Mr. Ramachandra Reddi levelled a very serious charge against us which on being brought to your notice he had with some hesitation withdrawn, still believing that we are guilty of the offence with which he charged us. He said, 'On the other hand, the fact that they are keeping sullen certainly confirms the suspicions in the minds of the hon. Members here and the country at large that they are *bought* by the present Government'. I should like my hon. Friend Mr. Ramachandra Reddi to contradict this suspicion on us by his conduct to-day on this motion. Then, I shall refer to the floor Leader, the hon. Member Mr. Krishnan Nair. He also, Sir, was one of those who voted against this Ministry and he expressed himself in very strong terms about the unworkability of diarchy, and also said that the Coimbatore resolution was for the non-acceptance of office till provincial autonomy was granted and that in view of that they were going to give no support to any Ministry. Now, I cannot however close my speech without referring to the Leader of the Justice Party, the Raja of

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noon.

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Panagal. Sir, it is very difficult to catch the hon. the Raja Sahib in the speeches he makes with reference to his views. Unusually, somehow or other he has committed himself for a remark which, perhaps, he never intended. 'The acceptance of office by the present Ministry which has no following worth the name in the Legislative Council or outside, which has no policy of its own, and their continuance of office after they were being defeated, however, served as the last straw on the camel's back.' Though the defeat on which he justifies his opposition to the Ministry was only the last straw on the camel's back there have been previous reasons against this Ministry which entitle the Raja Sahib to vote against this Ministry. Now he cannot try to explain away his remarks by saying that he was against it because the Ministry had sustained defeat and not because of other causes. Because he had mentioned two other reasons and this was only the last straw. He also said: 'they argue that such acceptance of and such continuance in office is the very negation of a responsible Government. They think that instead of that form of Government we may, with advantage, go back to the old form of Government.' Sir, it is this explanation of the hon. the Raja Sahib and Sir A. P. Patro that made Mr. Wood, the Leader of the European party to warn not only his friends but also other friends to be careful of that party in future. I hope, Sir, Sir James Simpson who is now the Leader of the European Members will be benefited by the warning given by Mr. Wood. Now, Sir, I wish only to refer to the very sweet remarks of my hon. Friend, Mr. Kumaraswami Reddiyar, the hon. Member for Tinnevely. He has done me the honour of agreeing with me in all the remarks against this Ministry during the no-confidence motion last August. He said, in answer to Mr. Venkataramana Ayyangar, 'If he had followed the debate more carefully or at any rate such portions of it as were audible even from the disadvantageous position he occupied he would have discovered that the complaint against the hon. Ministers in office is that they are devoid of any policy, they are barren of any policy and that is the main ground of impeachment to-day against these hon. Ministers'. Again 'The indecision and disagreement thus betrayed by the Ministers afford as strong an argument in favour of the motion as any that has been advanced. . . . There was one ground of attack against the present Ministry over which we were agreed, and, Sir, that point related to the unconstitutional and imbecile character of the present Ministry. I am glad to see, Sir, that the hon. Mover of the proposition has laid special stress on this point. He has told us that the present Ministers are not the representatives of any party that he could think of. I cannot do better than by stating only what a leading member, an eminent Member of the Ministerialist party said in the course of a post-prandial speech which he made at a dinner given in honour of the Chief Minister. . . . That is the reason why the hon. Members of the Swarajist party and the Justicites are working together to-day, in opposition to a Ministry which does not represent any political party and which has not got any following behind it. Well, Sir, as I said already, nothing can be a greater disaster to the people and the country than to allow a Ministry which is formed from no party at all, a Ministry which has not got an elected following behind it, to continue to function still. The question now is whether having regard to these statements the hon. Member is going to entrust his powers into the hands of the Ministry, the

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continuance of which he thinks is disastrous to the country. With these remarks I have very great pleasure in seconding this motion."

* Mr. A. RANGANATHA MUDALIYAR :—" Mr. President, Sir, you will realize, that I stand in a very peculiar position and that I owe it to myself and to the House that I do not contravene the ordinary etiquette of debate, specially as I have been till recently a Member of the Cabinet which partially is under attack now. However slightly it may be, to some extent at least, I cannot escape the responsibility for this motion. I have been with the hon. the First Minister for fifteen long months and whatever our internal opinions might have been, however much he or I might have protested against one or the other of our respective acts, yet so long as we held together I think it is my duty to share some responsibility for the motion of the sort under 'discussion'. Sir, words have been freely used here that the late Ministry was a kind of bonami Ministry, getting support from one or the other of the Opposition groups then against it. Some hon. Friends both above and below the gangway have indulged in such words against us. May I remind these people that their statements are not quite correct? Soon after the Ministry was formed hopes were held out that support will be forthcoming from a party if we satisfied some conditions and one of them was that we should always exclude the members of the Justice party from the local bodies or committees that might be appointed (Cries of: 'Oh, oh.') Would they deny the fact that I refused to be a party to a proposal of that sort? I had stood against such a policy, all the years I was in the Council and I refused, Sir, to do the very same thing which I had been condemning earlier. That led, Sir, to some troubles. However, it must be admitted that in those days the pendulum was swinging far too much on the side of the Congress Party and frankly it did not leave me happy. Some time afterwards the pendulum swung on the other side, viz., to the Justice Party and, in my opinion, the new attitude, is as untenable as was the earlier attitude. My idea always was that the Ministry must stand or fall by its own strength or weakness and not by the temporary support that it may be able to get from one or the other of the Opposition parties in the House. I say these things to show that it is not absolutely correct to say that the Ministry was the creature of one party or the other. To me the most important question is the Simon Commission. It may or may not be so important to others but to me it is a fundamental matter on which the whole country speaks with one voice and I would fain see this House echo the voice of the country. Sir, on the eve of the Commission being appointed, we had an All Party meeting to which Members of various parties—my own party, the Congress party, the Justice party, the Liberal party and other parties—were invited. We were asked to define our attitude and give our personal views on the matter. My hon. Friend, Dr. Subbarayan, said that he would not give his views without consulting his party. But, Sir, I was not so discreet as that and I impetuously said that I stand for the boycott of the Commission and was willing to allow my name appear among the signatories to that opinion. My hon. Friend said that it was not right for me to commit myself before the party expressed its views. Out of deference to that opinion I had my name withdrawn. The gentleman who said only the previous day that he would not express his opinion, what did he do? The very next day he typed a letter and had it published broadcast in all the papers though both his colleagues said that he had better await the party meeting.

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"Well, Sir, subsequently our party met and in view of the differences between us and perhaps as the easiest way out of the difficulty the party said that the Ministers also were free to express their own views with regard to this matter and act as they pleased. That solution was not a satisfactory solution. It was only a way out of the difficulty, and a very temporary one, at that time. What was to be our position after the Council expressed its opinion that the Council should co-operate or have nothing to do with the Simon Commission? It clearly involved that those who held the view opposite to that adopted by the House must either accept the decision and carry it out or vacate the post. If the resolution was for co-operation, then, with my pronounced views, I had no place at all on the Ministry. That was the position. Then, the boycott resolution was passed in the Council by 61 against 28. So far as I was concerned, that was in consonance with the views I held, but that was not in consonance with the views of my hon. Friend Dr. Subbarayan. It was open to him to say that whatever his personal views were, the subject being a Reserved one he was willing to allow the Council's opinion to be carried. He might have said so; but, as a matter of fact, he did not say so and yet clung to office. That I think, personally, was a wrong attitude on his part. (Hear, hear.)

"Afterwards came the proposal to move a no-confidence motion in Dr. Subbarayan and it failed. I do not want to go further into the details. Only this much I shall say: there are some friends here who have told me that if they had known at the time that the question of the Simon Commission was an issue in that motion they would have stood up for it. My interview with the Governor and all that took place at it is public property now. I have endeavoured to be as accurate in the matter as possible. If I had misunderstood His Excellency, he would certainly have taken care to see me corrected. The position is this. Sixty-one members of this House expressed a particular view of the matter by their vote, and we as responsible Ministers thought it proper to respond to the decision of theirs. Now because of our loyalty to the mandate of the House, our resignation became inevitable. So far as I am concerned, it is not a matter of great concern to me who are Ministers but the principle that is involved now, is a matter of serious consequence. And I hope that the hon. Members of this House, never mind to what party they belong, would take care to see that this principle is maintained intact, to the credit of ourselves and for the benefit of our successors. So far as the 61 members are concerned, I think the matter of how to vote is clear to them. There are some people here who are of the opinion that they should co-operate with the Simon Commission. But they should not allow their views in regard to the Simon Commission to influence their vote now in this House. The real point is whether they are going to allow a responsible Ministry to flout the opinion of the House. Such an opinion may not be binding on the Executive Members, because they are irremovable; but for the Ministers who have to justify their continuance in office by the vote of the House, to say that they can disregard the vote of this House is, I think, introducing an element which was never contemplated by the authors of the Reforms. I would therefore appeal to all my friends in this House to eschew out of consideration all irrelevant matters and judge whether or not they should establish the principle, namely, that the Ministers are the responsible executive of the Council and that, if they

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want to continue in office, they must be prepared to carry out the vote of the House.

“I know there are other considerations which are brought into operation to influence voting in regard to this matter. Some members are threatened that if this Ministry is thrown out, there is no alternative Ministry possible. But, seriously, I see no reason why, after all that we have been witnessing recently, another Ministry, after certain permutations and combinations, may not take the place of the one that may go out of office. There may be a dissolution of the Council, some people fear. If there is a dissolution, will the heavens fall? Are we so indispensable that we should continue for ever or is it that our places can never be taken by others equally able and even better than ourselves? I really do not understand why the question of right or wrong should not be decided on its merits, and why all irrelevant considerations should be brought into play to influence our judgment in this behalf? My concern now is not so much whether the present motion before the House will succeed or not, as what attitude the responsible Members of the House are going to adopt without Ministry—whether they are in a majority or not. If you feel that a certain thing is right, I hold that you must give your moral support to it by a proper vote.”

* Mr. K. R. VENKATARAMA AYYAR :—“Mr. President, Sir, the motion before the House raises important issues and considerations. The circumstances in which the present Ministry has come into existence are peculiar, if not abnormal. Those circumstances are such as to compel the thoughtful and dispassionate attention of all the Members of the House. If, as a result of such consideration by the House, the conclusion is enforced that the Ministry now set up offends the constitution or is injurious to the public interests or is destructive of the rights and privileges of this House, I have no hesitation in saying that it would be the distinct duty of all parties and sections of the House to disallow the salaries of these Ministers and turn them out of office. I venture to submit that the constitution has been violated, that the violation . . .”

Rajkumar S. N. DORAI RAJA :—“On a point of order, Sir. Can any Member read out his speech?”

* The hon. the PRESIDENT :—“It is clear he is not reading his speech. He is addressing the Chair by referring to his notes.” (Hear, hear.)

* Mr. K. R. VENKATARAMA AYYAR :—“I was saying the constitution is violated, that the violation is injurious to public interests, and that the rights and privileges of this House have been infringed. Under the Government of India Act, the Government of this Presidency in relation to transferred subjects is vested in the Governor acting with his Ministers appointed under the Act. Normally, the Governor is guided in relation to transferred subjects by the advice of his Ministers as a whole. That is the mandatory provision of the Statute; their opinion or advice which is binding on His Excellency the Governor is the joint opinion or advice of the Ministry as a whole. The Ministers when they happen to differ among themselves have of course to be guided by the wholesome rule of majority, or the exercise by the minority of the option of relinquishing office. The logical consequence in practice must be that whenever a Ministry is formed

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it has to be formed by His Excellency the Governor from among the group of elected Members who stand together as a distinct party for the realization of distinct public objects, whose policy and programme as judged by the results of the elections are most favoured by the electorate. This was recognized in December 1926 when His Excellency constituted his Ministry exclusively from the Independent Nationalist party which was then and till the other day the largest single group of elected members, barring the Congress or Swarajist group which declined to accept office. The Ministry so constituted functioned till the afternoon of the 3th instant. On the 6th, it would appear that the Second and Third Ministers had an important interview with His Excellency the Governor, in the course of which it is understood that His Excellency expressed his interpretation or reading of the attitude of the House as one of no confidence in the majority of the Ministers who constituted the Ministry. Be the interpretation of His Excellency correct or incorrect, this House cannot but appreciate the constitutional instinct of His Excellency in reminding or suggesting to his Ministers that their sole title to continue in office was the continued confidence of the majority of the elected Members of this House. The two Ministers appear to have questioned the correctness of the reading of His Excellency as to the attitude of the House towards them."

* The hon. the PRESIDENT :—"I do not think the hon. Member will be in order to refer to all the questions between His Excellency and the two Ministers who went out of office. The question now for discussion is whether the Ministers now in office have the confidence of this House or not."

* Mr. K. R. VENKATARAMA AYYAR :—"My point is that it was evident from what is very well known to the Members of this House as well as to the general public and from statements made already public by the Ministers that the differences such as they were between the Chief Minister and his late Colleagues were by no means differences in respect of which there was a warrant to . . ."

* The hon. the PRESIDENT :—"I cannot allow the hon. Member to proceed to speak on the differences between the Chief Minister and his late Colleagues. I request the hon. Member to confine himself to the issue whether the present Ministry has the confidence of the House or not."

* Mr. K. R. VENKATARAMA AYYAR :—"My point is . . ."

* The hon. the PRESIDENT :—"The hon. Member will have to appreciate my point of view."

* Mr. K. R. VENKATARAMA AYYAR :—"I am bowing to your ruling, Sir, and I am proceeding further. (A voice : 'On the same point?') (Laughter.) Not on the same point. The question is whether this House has confidence in the present Ministry. Let us analyse the present Ministry into its component parts. The hon Dr. Subbarayan is the chief factor in this Ministry. How far does he deserve the confidence and support of this House? In so far as one could make any inference from how he himself judged on the subject, I think it should be said to his credit that till the other day his own reading was probably a reading against himself; I mean that he was himself at the point of resigning owing to his appreciation of the situation as a situation which did not tend to his credit, which

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did not encourage him in the belief that this House had confidence in him. That is the point towards which I was driving. I do not think the hon. Dr. Subbarayan will be prepared to deny that since the famous boycott resolution of this House in January last he was after sleepless consideration urging himself into the right line of action which it was his duty to adopt, namely, that he should resign as he no longer could feel that he had the confidence either of his party or of this House.

“That being so, how did it come about that instead of his resigning and the House not having the occasion at all to consider whether it would have confidence in him or no, the other two resigned? That was the aspect that I was going to refer to; but I am not found to be in order in referring to that question. I would confine myself to this. The House has not before it now the merits of the Simon Boycott resolution as those merits are perfectly well established by the vote of the elected Members of this House in January last. The only further question that arises is what should be the line of conduct in regard to that resolution by a responsible Minister or Ministers answerable to the electorate and therefore bound to be guided by the votes of the elected Members of this House. In reference to that point the hon. Dr. Subbarayan has been pursuing a line of his own and flouting the mandate of this House. Now, I put it to the elected Members in the European block, I put it even to the official Members of this House, how will they take it if one of their paid subordinates flouted their orders and justified such defiance, on conscientious grounds? Would such a subordinate be allowed to hold office under them or draw salary for one minute after such defiance? How is the position different in the case of responsible Ministers answerable to this House and bound to be guided by the majority of votes of the elected Members elected by the people of this country? I say that is the crucial point. Take again the liberty the hon. Dr. Subbarayan assumed in regard to the Excise question as to which the policy and programme till the 8th instant was a policy and programme which was as much his as that of his other two Colleagues. Now he has gone an extraordinary length in dealing with this matter the other day. On the 15th of this month in his speech on the floor of this House he said, ‘It was not until the late Excise Minister formulated his personal proposals for the adoption of a policy of total prohibition throughout the presidency that the full constitutional implications of such a policy were examined in detail. As a result of this examination it has now become a question whether the subject of total prohibition is a matter which should be dealt with by a Minister at all. The Transferred subject of “Excise” is defined in the Devolution Rules as the “control of production, manufacture, possession, etc.”’. Then he wishes it to be noted that the administration of the Madras Abkari Act is not specifically included in the definition of the Transferred subject ‘Excise,’ and proceeds as follows: ‘In so far as this Act embodies clauses constituting offences and procedure for the detection and investigation of those offences the Act pertains to the Reserved Central subject “Criminal Law including Criminal Procedure” and pertains to the Transferred subject “Excise” only in so far as the punishment and the procedure prescribed by it are necessary for the proper administration of that subject as defined in the Devolution Rules.’ Now he says as to prohibition: “It is in fact the negation of all excise as therein defined. Total prohibition would therefore appear to be not only a

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Reserved subject but also a Central subject. Similarly the procedure necessary for the enforcement of the policy would be criminal procedure pure and simple and therefore likewise a Reserved Central subject. It would be inexpedient for any Minister to commit himself at present to any promise that he will take any particular step to give effect to any resolution of the Legislative Council on the subject of total prohibition.' And he goes on to say 'It seems that the utmost that he can say is that the question of total prohibition is one primarily if not entirely for the Governor in Council though a policy of temperance as distinguished from total prohibition may be a subject to be dealt with primarily by the Minister.'

"Now, Sir, that speech lays bare the mentality of the hon. Dr. Subbarayan. I do not think since the inauguration of the Reforms, it was at any time suggested that Excise in any aspect of it was not a Provincial subject or was not a Transferred subject. Now what he quotes from the Devolution Rules does not at all sustain the point that he makes, but that is not what I am now concerned with. What I am concerned to submit to the House is whether it is right on the part of the Minister who holds office by reason of the votes of the electors cast in favour of the party led by the Minister and whose continuance in office depends upon his right to the continued support of this House to disown jurisdiction, whether he is at all serving the interests of the electors and safeguarding the privileges and the constitutional position and powers of this House in the matter of controlling the administration of the Transferred departments, by making such a pronouncement as that which is subversive of the constitution altogether and destructive of the privileges and powers of this House? I submit, Sir, that any Minister who gives the case away by a speech which I doubt, if any responsible member of the Reserved half would venture from his place in the Treasury Benches to formulate for himself, any Minister who thus denies the rights of this House forfeits his right to function as Minister, and this House will no longer be doing the right thing in voting his salary. Sir, Dr. Subbarayan says the constitutional implications had since come to be examined in detail. May I ask, since when? Is it after the 8th of March when he became the sole Minister? Was there a meeting of the Cabinet to go into the question; was legal opinion taken in the matter; has any responsible law officer of the Crown made himself responsible for this adumbration of the constitutional position, and if not, how does the hon. Dr. Subbarayan feel free to flout this House and to make a statement destructive of the fundamental rights of this House by saying that Excise is no longer a Transferred subject, that it is no longer a Provincial subject and that because the disobedience of Excise rules and restrictions stand to be enforced by penal provisions of the Madras Abkari Act, therefore it comes under the head of criminal law including criminal procedure and that therefore it becomes a Central subject removed from the jurisdiction of the authorities in this province and removed from the jurisdiction of this House? I say, Sir, that is selling away rights of this House in a manner which is not competent, in a manner which must be decided by a vote of this House. This is an issue which is of fundamental importance to this country, as well as the duty to abide by the decision and mandate of this House in such an important issue as the Simon Boycott issue."

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* The hon. the PRESIDENT :—" I am afraid the hon. Member is repeating his own arguments. There are a good many other speakers. I request the hon. Member not to repeat his arguments."

* MR. K. R. VENKATARAMA AYYAR :—" I submit, Sir, that on these grounds the hon. the Chief Minister has certainly forfeited his right to the further confidence of this House. As for the other two Ministers now in office, I say, Sir, that by their allying themselves with this Chief Minister they have made themselves the abettors of his campaign of flouting and disobedience to the mandates of this House, and I say that this is a mentality which augurs very ill for any Minister who desires the confidence of this House. I do not wish to go into the points which have already been referred to by the previous speakers. The two new Ministers have violated the pledges made by them on the occasion of the elections in a manner which shows that they are not the people who care for the sanctity of pledges and therefore they also do not deserve the confidence of this House. I would therefore ask all the elected Members of this House including the Raja Sahib of Panagal and his followers and also my hon. Friends. . . ."

* The hon. the PRESIDENT :—" All of them are elected Members"

* MR. K. R. VENKATARAMA AYYAR :—" They are all elected Members and I would also request my hon. Friends on the European bench to remember that the fundamental thing is the authority and the binding nature of the mandates of this House and whoever flouts these mandates deserves to be turned out of office."

* The hon. DR. P. SUBBARAYAN :—" Mr. President, Sir, I hope hon. Members will bear with me if I take their minds back to the formation of the last Ministry. I am sure hon. Members know, as well as I do, the circumstances under which I undertook to form that Ministry. At that time the largest group in the Council, viz., the Members of the Congress party which my hon. Friend, Mr. Sami Venkatachalam, leads with such ability, while they refused to accept the responsibilities of office themselves, showed in no uncertain manner that they would not allow the members of the party that was in power before the last elections to carry on the administration, because they felt that the verdict of the country had gone against the party which my hon. Friend, the Raja of Panagal, leads. When the elections were held the only candidates that went to the polls with absolutely no hopes of ever being called to office were the Independents like myself. (Hear, hear.) Before I proceed any further I must thank my hon. Friends the two ex-Colleagues for the way in which we have been able to work together for the last 15 months. There have been differences as my hon. Colleague, the ex-Minister for Development, said, but these differences never came to a head in the sense that my hon. Colleagues did not deem fit on their part to resign till actually the question of the Simon Commission came and on this occasion I must thank them openly in this House for the courtesy and consideration they have shown me during the time they held office as Ministers with me as their chief.

" Hon. Members, I am sure, are aware also that having accepted office, we carried on under the most difficult conditions. But it must not be forgotten that we carried on always and at all times with the support of the

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Council, which, if it had cared to, could have dismissed us at any moment. Such was the position, Mr. President, when the issue of the Indian Statutory Commission was raised.

"This issue must, at all events, be made clear. The Council no doubt controls the Ministers in relation to the administration of the subjects that have been transferred under the Government of India Act. But hon. Members must at the same time realize that the Commission had really no relation with regard to the administration of the Transferred subjects. A good deal has been made with regard to the vote of the Council in favour of not co-operating with the Simon Commission. Being a Royal Commission, my late Colleagues and I could not ask our departments to refuse to supply any information that may be required by the Commission. I lay stress on this, because, if really my ex-Colleagues felt that they could not after the vote of the House in any way co-operate with the Commission, that certainly implies that they would not let their own departments prepare any evidence necessary for the use of the Commission. That, neither my Colleagues nor I could possibly do. To take this a little further, if it was the intention of the Council to condemn me on the attitude that I took with regard to this vote of the Council, the Council had it in its power to pass a vote of no confidence.

"This particular vote on the Simon Commission, I interpreted as being intended more as a lead to the country than as a condemnation of the Ministers (Several voices : 'No, no') in the discharge of their official duties. I do not think that I will be wrong, Mr. President, if I point out in this connection that I did not consult my late Colleagues as regards the Simon Commission, even though I did show them exactly what I was going to state to the press, because I felt that the issue did not concern the administration of the Transferred subjects. But as hon. Members are aware, I did inform my party of the views held by me with regard to the Commission, when they subsequently met and the party left this matter to the individual discretion of the Ministers. Mr. President, I am sure you know that after the vote on the Simon Commission, it began to be freely said that the vote was actually one of censure against me personally. My Colleagues evidently held the same view, because a subsequent communication of the Members to the press about their abiding by the resolution and the vote of this House makes this unmistakably clear. It was obviously to remove the doubts with regard to this matter that my hon. Friend, the Leader of the Opposition, moved a formal motion of no confidence, which, whatever my late hon. Colleagues may say, really had their sympathy, though not their active support. What the result of that motion was is now well known. By refusing even leave, the Council made it abundantly clear that it was not prepared to express condemnation on my administration of the Transferred subjects, because, as hon. Members are aware, the vote of no confidence mentioned nothing about the Simon Commission, though that was implied by the number of motions that had been tabled and subsequently withdrawn. What else, Mr. President, I ask in all humility, could that vote mean? It is ridiculous now to turn round and say that that vote failed because some were late and others absent, and a few lukewarm. Similar arguments could always be adduced to explain the failure of all resolutions and motions thrown out by this hon. House. When that vote of censure failed, my hon. Colleagues must have realized that

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the Council, at any rate, was not prepared to take their view that the previous vote was a vote of censure on me. It was clear, Mr. President, that that vote meant that the Council wanted me to carry on the administration and considering the Council did not support their view their resignations followed.

"It is absurd, Mr. President, now to turn round and hold His Excellency the Governor responsible for their resignations. They resigned as has been made abundantly clear and were not dismissed. If they were dismissed, Mr. President, it was by the Council and not by His Excellency. (Cries of 'Oh, oh'.) The hon. Member for the University interprets my action in carrying on while my two Colleagues left in the most offensive terms possible and declares it unconstitutional. May I point out that if my two Colleagues resigned without giving me the slightest information that they intended to do so and when a no-confidence motion against me failed, I do not see how it is wrong or unconstitutional for me to carry on. The hon. Member says that it is unheard of under any constitution. May I point out, Mr. President, that in 1903, Mr. Joseph Chamberlain, Mr. (afterwards Lord) Ritchie, Lord George Hamilton and Lord Balfour of Burleigh resigned, but Mr. Balfour still carried on."

Dr. B. S. MALLAYYA :—"You are, then, Mr. Balfour?" (Laughter.)

* The hon. Dr. P. SUBBARAYAN :—"They resigned informing the Prime Minister, and even then the Prime Minister remained. I leave the hon. Members to judge whether what I did was right or wrong, considering my Colleagues did not even do me the courtesy of informing me of their intended resignation.

"The situation afterwards, I admit, Mr. President, was really a very difficult one, but as circumstances stood, I carried on and the Council by its vote on the Excise demand—a vote, the bearing of which hon. Members will remember . . ."

A voice :—"It was a mixed vote."

* The hon. Dr. P. SUBBARAYAN :—"But it was all the same a vote of the House. The Council by its vote on the Excise demand—a vote the bearing of which hon. Members will remember was perfectly clear—made it unmistakably evident that the Council wanted me to form a ministry which would help to carry on the administration. Hon. Members are well aware that in accordance with this mandate the Ministry has been formed. And now it is said by hon. Members opposite that I have flouted this hon. House. If this is so, it is for hon. Members to make it clear by dismissing me and I can assure hon. Members opposite and behind that, if this vote is passed, I am prepared to resign and go out and do so with pleasure.

"Mr. President, if I have hitherto carried on and in the most difficult circumstances, it has been entirely due to the support of this Council, which cannot, I contend, refuse to accept responsibility for this Ministry. Hon. Members opposite, especially the hon. Member for the University, talk so often and so loudly of demoralization in politics. Mr. President, that demoralization is not due to me. It is due to those who want to be in this House and yet do not want to accept any kind of responsibility but evidently want to dismiss me and yet are not prepared to do so by a straight vote. (A voice :

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‘Question.’) This is really due to hon. Members opposite who do not act in a straight way and then expect others to interpret their action in a totally different way. These are the gentlemen who time in and time out quote the British Constitution to us. As far as my limited intelligence can understand that constitution, the principle underlying the system of responsible government as understood in England is that a ministry goes out only when the House makes it clear that it has no confidence in it. For once, Mr. President, I demand it from the hon. Members of this House to give me an unequivocal answer.”

Dr. B. S. MALLAYYA :—“Only elected Members voting.”

* The hon. Dr. P. SUBBARAYAN :—“In their eagerness to get hold of means wherewith to attack me, hon. Members proceed even trying to make capital of the statement I made on the Excise policy. I am afraid hon. Members think that I have been trying impliedly to take away the powers that this hon. House possesses. I never meant to do that. But the question will have to be examined. This is for my hon. Colleague, the present Excise Minister, to do in the first place. Of course, he has not yet had time to do it, and his conclusions will have to be considered by the Government. I would like to say a word about what my hon. Friend, the Leader of the Opposition, said about the order under section 144. I am afraid he has entirely misunderstood my position. Even to this day I stand by what I said then. I felt that political prisoners who were in prison for their conscience should be treated like gentlemen and not as dacoits and that was the reason why I crossed the floor. I could not have meant by that that law and order should be thrown to the winds. (Cries of Oh, oh!) I took care to say in that statement that was issued to the Press that the Government could not have passed an order under section 144 before the effect of the hartal on the 3rd February was known. But afterwards . . .”

Dr. B. S. MALLAYYA :—“What happened last night?”

* The hon. Dr. P. SUBBARAYAN :—“But, afterwards, when there was such rioting, I think it was the duty of any Government that wants to call itself civilized to protect the life and property of citizens of this city. That was only what was implied and it had nothing to do with political prisoners as my hon. Friend tried to make out.

“One word more, Mr. President, and I have done. I was really anxious, Sir, that this budget at least should be carried through, because if that was not done, we shall be starving the Transferred departments. I am sure hon. Members know that if by any circumstance His Excellency is compelled to take charge of the Transferred departments, by there being no Ministry, he can only carry on certifying such expenditure as is necessary for the administration of these departments. I think whatever may be said, it is worth one's while to see that the grants including those to which my hon. Friends and ex-Colleagues referred to the other day should remain in the budget. It is that alone that has made me carry on and if the House really feels that I have done anything wrong, it is for them to tell me so by a straight vote.”

* Mr. S. SATYAMURTI :—“Mr. President, Sir, my hon. Friend, the Minister for Local Self-Government, has delivered a speech full of fury against everybody except himself and his present Colleagues. In the course

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of that, he has spoken as if there is some distinction between the last ministry and the present ministry, because he referred to the 'last ministry' as if it were a defunct one; but he went on referring to his colleagues of the late ministry in this exquisite phrase, 'with me as their chief' and therefore the present ministry is the same as the last ministry, unless that 'with me as their chief' has now disappeared or has been altered, of which I see no sign. But, Sir, he lays down the extraordinary dictum that the Council is to control the ministry, only so far as the Transferred subjects are concerned, and, therefore, he is free to flout the voice and the vote of the Council with regard to the subjects which are not Transferred. Sir, that is a most extraordinary proposition.

"Is it suggested, Mr. President, that hon. Members who happen to be 1 p.m.
Ministers may defy the votes of this House and yet carry on as Ministers, although the votes may be on subjects which are not Transferred under the Government of India Act? I do not remember the exact words now, but I will quote from memory, that both according to the Government of India Act and the Joint Committee report, Ministers are to be appointed from among the elected Members of the Council; and only those who are able to command the confidence of the House and are capable of leading it are to be appointed as Ministers. Is it suggested that an elected Member who is not capable of leading the House, who cannot command the confidence of the House, can be a Minister and carry on?"

"Then, Sir, this great student of the British Constitution laid down another proposition that, being a Royal Commission, he and his colleagues have no right to refuse to give evidence before or to prevent their departments from giving help to the Simon Commission. I should like to ask my hon. Friend the authority for that statement. Where is it laid down that Ministers who, according to him, are to administer only Transferred subjects, should co-operate with Royal Commissions; or, are Royal Commissions Transferred subjects? Why has it been suggested that Ministers cannot prevent co-operation by their departments with the Royal Commission? This raises a most important position on which his two new colleagues must throw some light. I ask them a straight question, and I want a straight answer. Have they or have they not agreed to co-operate with the Simon Commission? Their two predecessors crossed the floor, gave up office, because they refused to co-operate with the Simon Commission. Only two weeks ago, or even less, both my hon. Friends gave their valuable votes in favour of the boycott of the Simon Commission and of this House having nothing to do with it. Have they or have they not, according to their new chief, agreed to give any kind of help? And according to the "Madras Mail", the exponent of the opinion of the *de facto* rulers of Madras, which says 'no Ministers will be summoned to office unless they agree to co-operate with the Simon Commission', have they or have they not given that undertaking that they will co-operate with the Simon Commission? Then have they not eaten their own words? I thought it would take even then some months at least to eat their own words; for they took nearly 15 months to eat their Congress pledges; but they have taken less than two weeks to eat their words in the Council.

"Then, Sir, my hon. Friend also said that the vote of the House to boycott the Simon Commission was a lead to the country but not to the Ministers.

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What are these Ministers here for, unless they represent the country here? Are they the servants of the bureaucracy? If it was a lead to the country, was it not a lead to them, if they claimed to be popular Ministers? My hon. Friend says that he did not consult his colleagues before he issued his statement in favour of not boycotting the Simon Commission, but of co-operating with it, because they had nothing to do with it. Then why did he ask the hon. Mr. Ranganatha Mudaliyar to withdraw his signature to the boycott manifesto and not to make a statement to boycott the Commission? Is it a case of one rule for his colleagues, and another rule for 'My Chief'?

"Then, Sir, he said that the loss of the last no-confidence motion was sufficient indication of the opinion of the House. The absurdity of it is too patent to require explanation. He then said, Sir, that his two hon. colleagues resigned because they lost the confidence of the Council, and they were not dismissed. Both of them have stated openly in the Press that they were practically dismissed and that they had to resign because they had 'lost the confidence of the Council,' in the opinion, not of the Council, but of an authority outside the Council. That statement has not yet been contradicted by any authority. May I ask my hon. Friend wherefrom he got the authority for that statement that they resigned, and that they were not dismissed?

"Then, Sir, my hon. Friend is a very modest person. He is carrying on a farce of a responsible Government called diarchy under the most farcical of conditions, with no party, no policy, no programme, no followers. With a Council, consisting of about 30 nominated official and non-official members and five European elected members whose duty is not to reason why but to vote and die for any ministry in office, he has been carrying on. That being so, Sir, it seems to me somewhat of a tall order if my hon. Friend should modestly compare himself to Lord Balfour. Has he ever heard of a Prime Minister, Mr. President, who consulted the Leader of the Opposition to find colleagues for himself? I have never heard of Mr. Balfour asking Mr. Asquith 'Please allow Mr. Lloyd George to be a colleague of mine; it does not matter on what election pledges he was returned; it does not matter whether he has a following or not; I can manage the House.' I have never heard of any British Prime Minister going out and saying that he would find colleagues from any party whatever so long as he is allowed to be the Prime Minister, and who would not mind who his colleagues were. I however hope, for the reputation of my Friend who is a student of the British constitution, that he will not utter such words even for the purpose of keeping himself and his colleagues in power. (A voice: Coalition.) But a coalition took place only when the Labour party and the Liberal party put their votes together openly, and not behind the back of the House, not by making the Law Member's post a part of the bargain, in order to get it for a party man, not by suggesting nominees for the post, and even that not openly. In the case of a coalition, the party crosses the floor and sits behind the Ministerial benches. Mr. Lloyd George when he led the coalition had all the parties sitting behind him, not sitting in the fifth block, seeing how the votes would go, and if the ministry would survive without their votes, remaining neutral, and if they would not survive, giving their votes in favour of the ministry; that is not the way in which honest politics in any

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country goes on or in this country should go on. Mr. President, the Justice Party are crossing the floor to-day. I warn them that as active parties to the continuance of this Ministry, the only honourable way in which they can have a coalition is by sitting behind the Ministerial benches. Then, Sir, the hon. the Third Minister by accepting the Ministership under these circumstances has been made a tool of by the Raja of Panagal; that is an insult to my poor community, and that is the crowning tragedy of all.

"Then, Sir, we were told something with regard to excise—I think it was the Raja Sahib of Ramnad or somebody else who said that my hon. Friend the Chief Minister is in the habit of making rash statements, withdrawing them later or qualifying them. To-day he has definitely qualified his statement with regard to the excise policy. He was holding forth saying the other day that excise is a central reserved subject; but to-day he knows it is a dangerous thing to say so and that some hon. Members' conscience will be affected by it. Swami Sabajanandam has spoken strongly about it, but he must get his vote. Therefore he now says 'No, no. I did not say so. I only said that as my own view. The Excise Minister, my new colleague, will further examine the question hereafter.' A bigger man than he who has been sitting there for 15 months had openly declared a policy, and suddenly my Friend, after getting him dismissed, clearly says that the whole thing is a reserved subject. It is not a reserved subject, we know; but where Mr. R. N. Arogyaswami Mudaliyar failed, my hon. Friend the puny Second Minister is going to succeed! The First Minister will make fresh statements and withdraw them, and afterwards again say something now, as a sop to Cerebrus; he says, 'Yes. I promise to do that.' But, Sir, this will deceive nobody.

"Then, with regard to the orders under section 144, he put forward a comfortable doctrine. There was a hartal, there were riots. Orders under section 144 were passed. On whom? On somebody on earth? Orders must be passed and peace must be restored; but on whom is it to be passed? After all, who proclaimed the hartal? They must be presumed to have been responsible for the riots, and so the order may be passed on them."

Mr. ABBAS ALI KHAN:—"May I address one question to my hon. Friend, Sir?"

* The hon. the PRESIDENT:—"This is not the time for addressing questions."

* Mr. S. SATYAMURTI:—"May I know what is the question, Sir?"

The hon. the PRESIDENT:—"No question is allowed."

* Mr. S. SATYAMURTI:—"That is so far as my hon. Friend is concerned. I want to ask him, as a student of the great British constitution, what becomes of joint responsibility, if he gets two of his Colleagues dismissed or they resign, and he gets two other people from no party? My hon. Friend the Second Minister belonged to the Congress Party once; he formed a new party with six people, three of whom deserted him. He has crossed the floor with two gentlemen. Therefore, if any hon. Member can get a following of two, he can become a Minister. This is an example to the elected Members of this House. Get two people and you can sit in the Treasury benches, and you can strike a bargain and get rich plums for yourself and for your followers by means of Secretaryships. A party of three is quite

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enough. I also want to know, Sir, whether the convention of Leaders of Parties becoming Ministers is going to be respected or not. My hon. Friend the Second Minister at least led two people; but whom does the hon. the Third Minister lead? He leads himself; I am glad he is frank enough to acknowledge that. He leads himself and the unfortunate official Members sitting there and also some of the unfortunate nominated Members. That is the party of my hon. Friend the Third Minister. I should like to tell the hon. the First Minister what stricken Brabantio told Othello "She (Desdemona) has deceived me, and may she thee." Let him beware.

"Then, Sir, I suggest that the question of the boycott of the Simon Commission is involved in this. These two Ministers have agreed—I say that deliberately—not to oppose the Simon Commission. Let them deny that if they dare. They have eaten their own words, and the Government have been enabled, by their treachery, to form a Ministry which is prepared to co-operate with the Commission. And this Ministry consists of people who only two weeks ago expressed themselves in favour of the boycott of the Simon Commission. This motion, Sir, is not against individuals; that is the unfortunate mistake that is being made. It is only the policy of the Ministry which we are attacking. What does it matter who the temporary occupants of that bench are? My hon. Friend said 'If the House dismisses me, I will go and with pleasure.' May I ask the successor in spirit of Lord Balfour in Madras what he means by 'this House'? Does he mean the elected Members, as he ought to? Is he following the British constitution? If he is going to follow Lord Balfour, I suggest that on the last occasion when 56 elected Members of this House voted against his Ministry and he had a following of only a few people mostly officials and nominated members, he should have taken it in a sportsmanlike spirit and resigned. He made so much of the British constitution, Mr. President; but he got a majority of 12, 11 of which were official votes. Is that a majority of which he can be proud, I ask?

"Then, Sir, he openly said it was his duty to co-operate with the Simon Commission. He might have taken the opinion of his colleagues on this point; he has not done that. Then, again, the Independent Party told him that he should recommend to the Governor the same two Ministers for Ministerships; but he has not recommended them, or probably their names have not been accepted. If the Independent Party also does not agree with him, which party does he lead? Is he to form a new Ministry from any Party or no Party? That is why I say that the present Ministry has, at the price of co-operation with the Simon Commission, at the price of the Law Membership of the Government going to an individual nominated by a distinguished leader of another party, and the Ministry also to consist of the nominees of that party, gone for help to another party in the Opposition. That is why I say that joint responsibility is gone and there is no party whatever.

"As regards the evils, Mr. President, of having a Ministry without people actually and openly supporting them by taking the responsibility for the consequences, I cannot do anything better than quote my hon. Friend from Chittoor, my hon. Friend from Nellore and my hon. Friend from Malabar. I have no time to refer to their speeches now; but I only hope that they will remember their words. Even assuming we committed a mistake last March, I suggest in all humility that if we did make a mistake, politics is not going to

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be improved if you repeat that same mistake ; if we committed a mistake (hear, hear), is it fair to say ' I will do what you did ' ? That is what children and immature minds do. That is what gentlemen who cannot act boldly do. These people can well follow a better example. I may also say, Mr. President, that even in last March we never supported this Ministry with votes. Our position in this Council was that we could not by ourselves command a majority and kill diarchy ; and so we said we were not going to use our votes, until we knew that diarchy would not be carried on. The moment the Justice Party said that they won't accept office until Provincial autonomy was granted, we voted with them. May I ask them, Sir, to-day to do the same thing, i.e., to remain neutral if they cannot vote with us, and not to give their voting strength to the Ministry without taking responsibility for the consequences ?

" Therefore, Sir, the simple question which this House has got to consider is, what is the position of the various opposition parties in this matter and of the Independent Party ? Where is the Independent Party ? One section of it is there and another section is here. Is this party going to be entrusted with the responsibility of office ? The ' Justice ' paper has said in its issues of the 2nd and 9th March that ' no elected Member who has voted for the Simon Commission boycott can accept the office of Minister '. And that is not what I said, but what the ' Justice ' paper said.

" It is also said that no member of the Justice Party should have anything to do with the acceptance of the office of Ministership or walk to the Ministerial side. It either means that the Justicites will not accept office ; or it means, should any accept the office he will not be kept in office. In other words, they have said that diarchy is unworkable. We have also said the same thing from the very beginning. First let us send all these Ministers to the obscurity from which they should never have been dragged ; and then the two parties shall have plenty of time to discuss the whole question.

1-15
p.m.

" Sir, before I conclude I wish to give a quotation from the speech of no less a person than His Excellency the Governor, the head of this province, delivered when proroguing the last Council. His Excellency said : ' I believe the moment has arrived when we should ask ourselves whether we should not in the interests of the administration of the Presidency and of Parliamentary Government hasten the days—days which I see approaching—of the institution of a real division of parties based upon effective political programmes. Let rivalry rest on no other basis than a genuine desire to promote the moral and material prosperity of the people whom the parties represent.

" ' The elections are upon us. A great opportunity is at hand. May the members of the different parties give evidence of their Parliamentary growth and rising to the occasion before them demonstrate that in this Presidency the best principles of Parliamentary Government have been absorbed and that the interests which they have at heart are the true interests of the public weal.'

" Sir, can it be pretended for a moment that this Ministry has understood the principles of Parliamentary Government ? After all, Ministers may come and Ministers may go ; but the real interests are those of the people whom we represent, to whom we owe our seats, to whom we are responsible

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and for whose education in the art of self-government we are responsible.' It seems to me that if Government or if any Member of this House should without caring for even the rudiments of political decency or political right stand neutral or should support this Ministry, then it means the perpetuation of a Ministry of traitors, traitors to the country, traitors to the very electorates whom they represent to voice forth their opinions—traitors, since they broke their election pledges. Sir, the fault is in us and not in our stars that we are slaves. What we want is decent and honest standards of public conduct; we do not care whether the Ministers are Nayudus or Mudaliyars or Ayyars. If any of them turns a traitor, he shall be turned out, so that in future none of them shall have the hardihood to look forward to re-election to any Legislature." (Applause.)

THE RAJA OF PANAGAL :—"At this stage of the debate I should like to say a few words in regard to the attitude our party proposes to take towards the motion under debate. Ever since the late two Ministers had to vacate their places in the Ministry the question of the formation of a new Ministry has been engaging the attention of various parties. It is no wonder, therefore, that we too had the question discussed at our party meetings. As the result of these discussions the party decided that though, so long as the now famous resolution passed at the Coimbatore Confederation is in force the members of the party could not accept the responsibility of carrying on the administration on the Transferred side and that, however, they are not bound to oppose any Ministry that might be formed. This decision, I maintain, is quite in accord with the general policy of the party. The party never committed itself to a policy of obstruction. It never pledged itself to wreck a Ministry for the mere sake of wrecking it. The Coimbatore resolution which in the special circumstances under the diarchic system ordains that we should not accept Ministerial responsibility is, if I may say so, a self-denying ordinance.

"It is true that during the last budget meeting we pressed a motion of 'No-confidence' against the late Ministry. We did so because that Ministry was formed out of non-descriptors who till then did not belong to any party and had no policy of their own. Besides we thought by pressing that motion we could test the loyalty of the Swarajists to their pledges. The mover of the motion made our position clear. Though the motion was lost, we succeeded in our attempt to make the Swarajists appear in their true colours. Betraying their election pledges, they abstained from supporting the motion and allowed the Ministry to continue to function perhaps for the reasons which my hon. Friend, the late second Minister, the Member for Bellary, has let out. They have no right to expect our party now to support them in their attempt to defeat the present Ministry and gain their own ends. Sir, the new Ministry is formed as a coalition between one wing of the Congress Party and one wing of Independent Nationalists. Moreover, it is formed for the first time on the so-called non-communal basis with a distinguished Brahmin member on it. I am not sure if we should oppose it at this stage. Why not we wait and see how it will conduct itself. It is pointed out on the one side that the new Ministers are renegades and discarded their party pledges, while on the other side it is urged that the new Ministers and their friends had to separate themselves from the party when the rest of it were guilty of betraying their pledges to their electorate by supporting the late Ministry for questionable reasons. We are not concerned with these charges and

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counter-charges of betrayal in the Swarajist camp. We, however, feel proud to be conscious that after all it is our party that stood by its principles withstanding all temptations.

"Statements have been made that we undertook to support the Ministry on condition that we get the Law Membership, now vacant, for a member of our party. These statements are as ill-founded as they are unworthy. There is absolutely no truth to warrant these statements. That it is so, I can demonstrate beyond doubt by a reference to a leading article which appeared in *Justice* on the 9th instant. Mark the date. That article expressed the feeling of the party in no ambiguous terms. It is distinctly stated there, that the members of the party could not accept office while they could have no objection to support the Ministry that might be formed. This article appeared on 9th before the last late Advocate-General could have the idea of resigning his proposed appointment. He actually took charge of his office on the 10th instant. Where then was there room for bargaining? I can only say that the suggestion involved in the statements is made with a view to frighten the powers that be into pursuing a course which is to the liking of those who are making the suggestion. One Hon. Member above the gangway said that I stood up when recently a motion of 'no-confidence' was proposed in the Council. Yes, I did so, to allow the motion to be discussed in the Council, so that my party might vote on the merits of the motion after hearing both sides. I made my position clear to the Leader of the Swarajya Party. Another member referred to my having been a party to press a motion of no-confidence against the late Ministry during the last budget session. I have already explained to the House the circumstances that led our party to press that motion. The present Ministry, as I have already stated, is a coalition Ministry and the hon. Members are aware that a coalition Ministry is a recognized constitutional form of Ministry. Let us wait and see how it is going to work. This is the attitude of my party towards the motion."

The hon. the President then called upon the hon. the Finance Member to speak and announced that the demand will be guillotined at 1-35 p.m.

* The hon. Mr. T. E. MOIR :—"Mr. President, time forbids me from traversing the whole field that has been covered by hon. Members of this House during this debate. So I shall content myself with dealing with one or two points which more directly concern the Reserved Half of the Government, rather than advert to those matters with which my hon. Colleague, the Chief Minister, has already dealt. We have been assured more than once in the course of the debate that we are not concerned with personalities. At the same time, we on the Reserved Half have been called upon from the beginning to the end of this discussion to repudiate our new Colleagues, not on any policy of their own or anything that they have done, for they have had no time to do anything, but on the ground that their acceptance of their present position offends against all canons of political decency. Now, Sir, one Member of the Opposition referred to various schools of thought. He gave a description of several of such schools as based on his experience in this House, and it seemed to me that in those remarks there was some realization that there is legitimate room for differences of opinion in political life, whether they are due to outlook, to policy or to method. But their conception of political liberty is, I am afraid, somewhat circumscribed. What

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is their political theory? It is this. When a Member of this House once sits in those benches opposite he has no right whatsoever to exercise that inherent right of political self-determination (laughter) to which he is entitled. (Cries of Oh, oh.) (A voice : after re-election.) That Sir, is not a school of political thought but a domination, it is a tyranny. What is the complaint against my hon. Colleagues? I take it to be that they have acted on the right to revise their opinions which every hon. Member of this House possesses. But we are told that on revising their policy or opinions or methods they ought to have gone to the country. Have the Swaraj Party gone to the country under similar circumstances? Have hon. Members opposite when they change their opinions or policy or methods gone to the country? (Cries of yes, yes.) Then, Sir, may I ask whether the Swaraj Party have ever extended this doctrine of political purity to their own relations with other parties? Their whole propaganda is directed against the other parties and to induce their supporters to go over to their side; that seems hardly in consonance with the doctrine they enunciate. They have never said to any who have joined them 'we shall now have nothing to do with you; you are a political outcaste; you have come over to us and abandoned your party, you have changed your views and your methods and it is an offence against all canons of political decency.' I have never heard of their rejecting any recruits from any other party or from any other source whatsoever on these grounds. And yet they appeal to my hon. Colleagues and to myself to apply this doctrine against our two new Colleagues. Whenever an opportunity offered, I have implored hon. Members of this House and others to give up the barren company of the Members who sit on the opposite benches. Because my two Colleagues have accepted that advice . . . (Hear, hear . . .) advice which I have implored and still implore hon. Members opposite to follow. I am now to repudiate them for having done so. I am tired of this untouchability . . . The Swarajist Party is fertile in inventing new causes of untouchability and ostracism and I refuse to accept them. But let me say this. Our two new Colleagues came out openly; they did not remain inside the Swarajist Party and work against it. Their leaving those benches was a clear indication to the Swarajist Party that they had exercised their self-determination to which they were entitled. Let me add that to me the marvel is not that some have left its ranks but that so many remain within them.

"Then, Sir, an appeal was made by an hon. Member opposite to nominated Members. Now, Sir, this is a matter on the constitutional aspects of which I personally do not claim to be well versed. But I have myself been a nominated Member and I can only judge of the attitude which it seems to me would be proper to nominated members from my own reflections on the subject. Of course if I were nominated to represent a particular community or interest it would be my duty to urge the interests of that community or interest, whatever it might be, upon the Government at every possible stage. And if necessary on any particular matter affecting those interests, I might have to say I was in disagreement with them. But there is one further thing to which it seems to me that any nominated member must subscribe, viz., that he accepts the principles under which the Government which conferred the nomination upon him functions that is to say that any nominated member of this House is to my mind bound to accept this postulate that the constitutional Government of this country under which nomination is conferred upon must continue. If he does not accept that

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principle which is implicit in his nomination or if he sees room or ground to change his view, may I say that in my opinion he should resign and remain a nominated member no longer. (Hear, hear.) If I had ever found myself in such a position, I would have placed my resignation in His Excellency's hands"

* The hon. the PRESIDENT:—"Order, order. The time for the discussion of this demand having now expired, I shall put the motion and the demand to the vote of the House."

The question that the allotment of Rs. 1,74,000 for Pay of Officers be reduced by Rs. 100 was put to the House and declared lost. A poll was demanded and the House divided thus:—

Ayes.

- | | |
|---|--|
| 1. Mr. H. B. Ari Gowder. | 25. Sriman Biswanath Das Mahasayo. |
| 2. " Sami Venkatachalam Chetti. | 26. Mr. A. Kaleswara Rao. |
| 3. " S. Satyamurti. | 27. " R. Srinivasa Ayyangar. |
| 4. " C. V. Venkataramana Ayyangar. | 28. " K. Koti Reddi. |
| 5. " T. Adinarayana Chettiyar. | 29. " L. K. Tulasiram. |
| 6. " P. Anjaneyulu. | 30. " C. Marudavanam Pillai. |
| 7. " J. A. Saldanha. | 31. " K. V. Krishnaswami Nayakar. |
| 8. " P. C. Venkatespathi Raju. | 32. " K. Madhavan Nayar. |
| 9. " C. S. Govindaraja Mudaliyar. | 33. " C. Venkatsrangam Nayudu. |
| 10. " G. Harisaravottama Rao. | 34. " B. Venkatratnam. |
| 11. " C. N. Muthuranga Mudaliyar. | 35. " K. S. Sivasubrahmanya Ayyar. |
| 12. Abdul Hamid Khan Sahib Bahadur. | 36. " A. Ranganatha Mudaliyar. |
| 13. Mr. K. V. R. Swami. | 37. Diwan Bahadur R. N. Arogyaswami Mudaliyar. |
| 14. Muhammad Meera Ravuttur. | 38. The Raja of Ramnad. |
| 15. Mr. D. Narayana Raju. | 39. Mr. Ramanath Goenka. |
| 16. Dr. B. S. Mallayya. | 40. " R. Nagan Gowda. |
| 17. Uppi Sahib Bahadur. | 41. The Zamindar of Seithur. |
| 18. Mr. K. R. Karant. | 42. Mr. C. R. Parthasarathi Ayyangar. |
| 19. " Mothay Narayana Rao. | 43. " T. C. Srinivasa Ayyangar. |
| 20. " C. Obi Reddi. | 44. The Zamindar of Gollapalli. |
| 21. " A. Parasurama Rao Pantulu. | 45. Mr. Chavadi Subramanya Pillai. |
| 22. " C. Ramasomayajulu. | 46. " K. R. Venkatarama Ayyar. |
| 23. Basheer Ahmad Sayeed Sahib Bahadur. | |
| 24. Mr. P. Bhaktavatsalu Nayudu. | |

Noes.

- | | |
|---|---|
| 1. The hon. Sir Norman Macjoribanks. | 24. Rai Sahib M. Hampayya. |
| 2. " Khan Bahadur Muhammad Usman Sahib Bahadur. | 25. Mr. V. Ch. John. |
| 3. " Mr. T. E. Moir. | 26. " J. Kuppuswami. |
| 4. " Mr. A. Y. G. Campbell. | 27. Subadar Major Nanjappa Bahadur. |
| 5. " Mr. M. R. Seturathnam Ayyar. | 28. Mr. A. Ar. Narayanan Chettiyar. |
| 6. " Mr. S. Muthiah Mudaliyar. | 29. Rao Bahadur O. M. Narayanan Nam-budripad. |
| 7. " Dr. P. Subbarayan. | 30. Mr. T. M. Narayanaswami Pillai. |
| 8. Diwan Bahadur P. Kesava Pillai. | 31. " K. Krishnan. |
| 9. Maharaja of Jeypore. | 32. " N. Sivarataj. |
| 10. Rao Bahadur C. V. Anantakrishna Ayyar. | 33. " M. V. Gangadhara Siva. |
| 11. Mr. F. B. Evans. | 34. Rao Sahib J. C. Guruswami. |
| 12. " H. A. Watson. | 35. Mr. V. J. Munuswami Pillai. |
| 13. " G. T. Boag. | 36. " W. P. A. Soundarapandia Nadar. |
| 14. " A. McG. C. Tampoe. | 37. " Daniel Thomas. |
| 15. " S. H. Slater. | 38. " S. V. Vanavudaiya Goundar. |
| 16. " C. B. Cotterell. | 39. " S. Venkiah. |
| 17. " P. J. Gnanavaram Pillai. | 40. " M. A. Manikkavelu Nayakar. |
| 18. " R. Foulkes. | 41. Syed Ibrahim Sahib Bahadur. |
| 19. Abdul Wahab Sahib Bahadur. | 42. Sir James Simpson. |
| 20. Abbas Ali Khan Bahadur. | 43. Mr. Kenneth Kay. |
| 21. Mr. C. D. Appavu Chettiyar. | 44. " W. O. Wright. |
| 22. " A. B. Shetty. | 45. " C. R. T. Congreve. |
| 23. " J. Bheemasayya. | 46. " A. T. Luker. |

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Noes—cont.

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| 47. Rajkumar S. N. Dorai Raja. | 59. Mr. T. K. Chidambaranatha Mudaliyar. |
| 48. The Zamindar of Kallikotta. | 60. Rao Bahadur S. Ellappa Chettiyar. |
| 49. Mr. K. Abdul Hye Sahib. | 61. Abdul Razack Sahib Bahadur. |
| 50. " K. Ramachandra Padayachi. | 62. Khadir Mohidin Sahib Bahadur. |
| 51. " U. Ramaswami Ayyar. | 63. Diwan Bahadur S. Kumaraswami Reddi-
yar. |
| 52. Swami A. S. Sahajanandam. | 64. T. M. Moida Sahib Bahadur. |
| 53. Syed Tajudin Sahib Bahadur. | 65. Rao Bahadur K. Sitarama Reddiyar. |
| 54. Mr. Gopala Menon. | 66. " B. Muniswami Nayudu. |
| 55. " B. Ramachandra Reddi. | 67. Diwan Bahadur A. M. Murugappa
Chettiyar. |
| 56. Rao Bahadur C. S. Ratnasabapathi Mudali-
yar. | 68. The Zamindar of Mirzapuram. |
| 57. Diwan Bahadur M. Krishnan Nayar. | 69. Mr. A. V. Bhanoji Rao. |
| 58. Mr. P. T. Rajan. | |

Neutral.

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|------------------------------|---------------------------------|
| 1. Mr. V. Ramjee Rao. | 4. The Raja of Panagal. |
| 2. " G. K. Prasnayya. | 5. Rao Bahadur Sir A. P. Patro. |
| 3. " S. Arupudaswami Udayar. | 6. Kumararaja of Venkatagiri. |

Ayes 46. *Noes* 69. *Neutral* 6. The motion was lost.

Mr. C. V. VENKATARAMANA AYYANGAR :—" May we have an idea of the division among the elected Members ? "

* The hon. the PRESIDENT :—" I shall have the calculation made and shall announce the result after lunch interval. "

The question that Government be granted a sum not exceeding Rs. 4.55 lakhs under Demand XII—General Administration—Ministers and Civil Secretariats—Transferred, was put to the House and adopted and the grant was made.

After Lunch (2.30 p.m.)

* The hon. the PRESIDENT :—" The analysis of the division is as follows :—

<i>Ayes</i> 46.					<i>Noes</i> 62.				
Elected	..	..	..	44	Ex-officio	..	..	..	4
Nominated	..	..	..	2	Officials	..	..	..	7
					Nominated	..	..	..	16
					Elected	..	..	..	42
<i>Neutral</i> 6									
Elected	..	..	..	4					
Nominated	..	..	..	2					

DEMAND XIII—ADMINISTRATION OF JUSTICE

* The hon. Mr. A. Y. G. CAMPBELL :—" Mr. President, Sir, on the recommendation of His Excellency the Governor I beg to move

' that the Government be granted a sum not exceeding Rs. 85.13 lakhs under Demand XIII—Administration of Justice. '

* The hon. the PRESIDENT :—" The question is that ' the Government be granted a sum not exceeding Rs. 85.13 lakhs under Demand XIII—Administration of Justice. '

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* Mr. S. ARPUDASWAMI UDAYAR :—“ Mr. President, Sir, I move
‘ to reduce the allotment of Rs. 6,30,900 for High Court by Rs. 100.’

“ This is to discuss (a) the policy of the continued appointment of temporary Judges, and (b) the need for a more liberal treatment by the hon. Judges of the High Court of the establishments of copyists and type-copyists.

“ The present strength of the Judges of the High Court is maintained and there is no possibility of its reduction”

* The hon. the PRESIDENT :—“ I understand that the copyists and type-copyists are under the control of the Government and not under the Judges of the High Court.”

The hon. Mr. A. Y. G. CAMPBELL :—“ Copyists are under the High Court.”

* The hon. the PRESIDENT :—“ I understand that their pay is fixed by the Government and not by the High Court.”

The hon. Mr. A. Y. G. CAMPBELL :—“ Their pay is fixed by the Government.”

* The hon. the PRESIDENT :—“ It must be a recommendation to the Government that there is a need for a more liberal treatment of the establishment of copyists and type-copyists.”

* Mr. S. ARPUDASWAMI UDAYAR :—“ As I said, Sir, there is no sign of the strength of the High Court Judges being reduced. We know that several hon. Judges are engaged in disposing of cases either on the Original side or on the Appellate side. It is true that temporary Judges are appointed in order to help them to dispose of arrears. But I think, Sir, that if year after year these appointments are continued there will be no incentive for the hon. Judges to dispose of all arrears and to show rapid work. There is the tendency also of these temporary Judges becoming permanent fixtures. The question of economies has been raised in this House and I press upon the consideration of the Council the desirability of seeing that there is an end to the appointment of temporary Judges.

“ I also appeal to the Government to consider more favourably the case of copyists and type-copyists. These are all hard-worked men ; their work is mechanical. Hon. Members know that copying work is a mechanical drudgery ; it is not intelligent work ; these poor people have, from morning to evening, to do nothing but hard drudgery work. Very often they are subject to cramps and ill-health. They have not the advantage of holidays and other privileges enjoyed by other clerks. I know, Sir, that an assurance was given by the then Law Member when this subject was discussed at the last budget time that their request was being considered. I think the result has not been very satisfactory. I therefore press for a reconsideration of their prayer to be incorporated in the regular establishment and to have all the privileges which are enjoyed by regular clerks. It is for these reasons that I press this motion for the consideration of the House.”

* Mr. J. A. SALDANHA :—“ Sir, I shall confine myself to the question of copyists. The fees which the courts get from copying charges are not clearly given in the budget estimates. I do not know what the exact receipt on the revenue side is. There is an item of Rs. 11 lakhs under Administration of Justice, the item of ‘ Fees, Fines and Forfeitures’. The expenditure on

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copyists comes to Rs. 4,56,700. So far as I am informed, the amount of fees collected by the courts is greater than the actual expenditure. The complaint of the copyists is that they are doing very responsible work. Copying is not a very easy thing. Copyists ought to be fairly well or highly educated. They are often asked to copy manuscript judgments written by Judges which are very illegible. My own experience is that copyists who are not educated cannot well follow the judgments and make mistakes. In order to avoid this educated men should be appointed as copyists. But the pay fixed however is lower than that of ordinary clerks. The Superintendent of Copyists is paid Rs. 60 to 80 (Higher grade); Rs. 35 to 60 (Lower grade). The Assistant Superintendent is paid Rs. 35 to 40; Examiners—Rs. 35 to 40; Readers—Rs. 25 to 30; Copyists—Rs. 20. The figures are at page 152 of the Budget Estimate. Rupees 20 is the pay of chobdars and other menials. This sum appears to be a very low pay for copyists. Considering the fact that we are getting a large income from copying fees which are as high as two annas a page I would press upon the Government the equity of raising the pay of copyists to that of clerks who start from Rs. 35. The pay should at least be raised to Rs. 30 and correspondingly that of the examiner, of the readers and of those in higher grades. It is further desirable and equitable that the appointment of copyists must be made subject to their being promoted to the clerical grade. It would be a great stimulant to copyists to do good work if they are able to look for some sort of promotion to the clerical grade. I think it is unnecessary to dilate upon the equity of this recommendation. I hope that the House would vote in favour of this motion brought forward by my hon. Friend Mr. Arpudaswami Udayar. Unfortunately this is mixed up under the heading 'Judges'. I would suggest to you, Sir, that it is better to have a separate motion on the subject of copyists from the appointment of High Court Judges. I would like to know whether these two items cannot be separated for the purpose of voting, pay of copyists from that of Judges. This matter stands upon a different footing from that of the Judges being made permanent or not.

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"As regards the copyists, we have often mentioned in this House that their lot is very bad and they are poorly paid. They must be paid the minimum wages. They are paid only Rs. 20 a month. During the summer recess they will have to be satisfied with whatever they earn and nothing more. Therefore I submit that these copyists should be paid the pay of ordinary clerks and that they should have time scale also. Sir, this is a living-wage for no one in this country. No clerk is paid Rs. 20 in any department. Why should these copyists be paid so low as Rs. 15 and Rs. 20? So what I submit to the hon. Members of this House is to vote for this motion. I would also request the Member in charge to look into the matter sympathetically. It is not proper that we should come forward to this House with this request year after year. It is not proper that any Government servant should be paid Rs. 20. As it is known to hon. Members, the duty on copy stamps has been increased by 5⁰⁰ per cent. But the lot of the copyists has not in any way improved. This department was not intended to be a revenue fetching department but a service department. Originally when people wanted copies of documents, they engaged private persons and paid them on the number of pages they copied. Later on the department was made more stable, but it was never made permanent. The copyists have never been paid a decent salary. It is computed from this department a lot

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of revenue is made. My hon. Friend in charge of the department will certainly give us some figures. The figures will show that the Government are making revenue out of this. So far as this department is concerned, my submission is that it should be made a service department and not a revenue department. The lot of the copyists ought to be improved. A sum of twenty rupees is too small in these days to live upon. With these few words, I commend the motion to the acceptance of the House."

* Mr. C. RAMASOMAYAJULU :—"Sir, the work of the copyists is of a particularly arduous nature. It is generally believed—I believe wrongly—that the copyist has simply to copy mechanically and that he is not required to exercise his head and his intellect. Sir, it is not so. It has been our experience that judges if they come to a particular cadre write a very illegible hand. These copyists have often to decipher very uncouth and out of fashion handwritings contained in old and ancient documents. It is with the utmost difficulty that one can get at what is contained in ancient documents. The writing is very dissimilar to the handwriting that is now in vogue. That is another difficulty. Unfortunately this service is not pensionable. Even in the recent Government Order their service has not been made pensionable and their prospects have not been materially improved. Sir, it is high time the service is made pensionable and also made a regular service."

* The hon. Mr. A. Y. G. CAMPBELL :—"Mr President, Sir, the Mover of the resolution brought forward his motion with reference to two subjects which are widely different from each other. The first referred to the number of High Court Judges and the hon. the Mover of the motion objected to the continuance of the temporary judges. I understood that he objected to temporary judges altogether, but it is, I think, a wise provision in the Government of India Act that the Government of India may appoint temporary judges from time to time should the work in the High Court be such as to make this course desirable. As regards the present position in the High Court, that matter has been discussed in this House on former occasions and it is now under correspondence with the Government of India; and I hope that before long some decision will be come to as to whether the number of judges should be permanently increased or the present temporary judges should cease to hold office as such at the end of their present term."

* As regards the emoluments of copyists, copyists are paid according to the amount of work they do, at so many pies for 150 words, subject to a certain minimum. The old rate paid before 1922 was 10 pies for 150 words. It was raised to 15 pies in September 1922; the minimum pay was fixed at Rs. 14-8-0 a month in the case of ordinary copyists and Rs. 20 a month in the case of typist-copyists. In the year 1926 the minimum was fixed at Rs. 20 in the case of all copyists, whether ordinary or typist. Some of the hon. Members have spoken as if this amount were the maximum pay to be earned by copyists. That is not the case. It is the minimum. If they earn more, they are paid whatever they have earned. It is an economical method of payment for the service, because the amount of work to be done must necessarily vary in different courts. There must be some courts where there is hardly enough work for a single copyist and there must be other courts requiring two or more copyists. At the present moment a communication has been received from the High Court regarding the pay of the copyists in the city courts and suggesting the raising of the minimum pay.

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It is now under consideration and in dealing with it the remarks of hon. Members will receive attention."

The motion was by leave withdrawn.

* The hon. the PRESIDENT:—"The hon. Member Mr. Basheer Ahmad cannot move his cut as the question of a Muhammadan judge has been voted by the House on the 24th January."

* Mr. SAMI VENKATACHALAM CHETTI:—"Mr. President, Sir, I would like to make a submission. I desire to move that item 610 regarding the release of Mr. Narayana Menon be taken up first. The Leader of the House said he would not object if I should move."

* The hon. Mr. T. E. MOIR:—"I understand that it is suggested that we should proceed to motion 610. Sir, if all those hon. Members, who have given notice of motions on which the House has the right to ask questions and also for a statement of the policy of the Government, but whose motions will be passed over if this particular motion is taken up, will waive their rights, then of course Government cannot object to this particular motion being discussed. But I understand that the normal course would be to proceed through the items as numbered, and it is therefore really a question as to whether hon. Members who gave notice of these motions are willing to surrender their rights to have their particular motions discussed in the order in which they stand. If hon. Members against whose names prior motions stand are agreeable to that course or do not wish to move them in order to give preference to any other motion, then, of course, Government have nothing to say, Sir. But I do not think that we should accept the responsibility for depriving hon. Members of their right to move their motions in the order in which they are numbered in the Agenda."

* Mr. SAMI VENKATACHALAM CHETTI:—"Sir, I did not think Government will be burdened with the responsibility of depriving members from moving their motions. I put this to the Leader of the House and he said that in case the proposal is made by me, Government will not object to it. That is all the assurance he has given. But, the hon. Mr. Moir's speech seems to indicate that some members will insist upon their right to move their motions. I place this suggestion so that if Government do not object we can proceed to the discussion of the matter."

* The hon. Mr. T. E. MOIR:—"Sir, I merely wish to point out to the Leader of the Opposition that it is not a question of the Government objecting. Government will not object, but Government are not entitled to speak for the members whose interests are affected."

* The hon. the PRESIDENT:—"I may point out to the Leader of the Opposition a further difficulty I feel. The Council has already given a vote during the current session regarding the release of Mr. Narayana Menon. I do not therefore think that he would be well-advised to press his motion until we come to it. There is also the danger of its being ruled out of order." (Laughter).

* Mr. SAMI VENKATACHALAM CHETTI:—"This takes away all the objection, Sir."

* Mr. C. RAMASOMAYAJULU:—"Sir, my motion is

'to reduce the allotment of Rs. 6,30,900 for High Court by Rs. 100.'

"This is to discuss the desirability of standardization of law reports."

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"Sir, this question was once before brought to the notice of the Government during the time of the general discussion on the budget last year and the hon. Sir C. P. Ramaswami Ayyar promised to enquire into the matter and see what can be done. This matter, Sir, is one involving an inconvenience which every legal practitioner has experienced and every judge for the matter of that. The volumes which we have now are not reports which are prepared on recognized or methodical lines. They are simply published in a spasmodic form. To-day both the legal practitioner and the judge are very often confronted with reports which are not as authoritative and methodical as one would wish. The citation of these reports is a difficult matter because Government do not exercise any control over the publication of these reports. The publication is going on in a most promiscuous manner and the judge finds it impossible to find out the really valuable and ruling authority on any question which is under consideration.

"It so happens, Sir, that some of these reporting assistants give their prominence to the facts and not to the question of law involved. The practitioners in their eagerness for law are disposed to go in for promiscuously published reports. We are actually at bay in dealing with certain matter in order to find what we should have as the guiding factor. I may submit that a Bill has been moved in the Legislative Assembly by a Muhammadan Member and that it is still pending. This Government also should take a lead in the matter and see that the matter is set right at a very early date."

Mr. J. A. Saldanha rose to move his motion on the same subject.

* The hon. the PRESIDENT :—"If this motion is carried, I do not think it will be in order to move for the abolition of the law reports."

* Mr. J. A. SALDANHA :—"Then I oppose this motion. Judges find that the citing of a large number of cases is a puzzle to them. But the question is whether there are after all so many reports published without any rhyme or reason. So far as I can see there are certain classes of reports conducted by leading lawyers for the use of the public especially lawyers. Lawyers themselves must select which is the best report for them. The competition among the publishers is so great that there is an incentive to publish reports of a large number of important cases in as good a form as possible. As long as the present system of citing cases is allowed to continue I do not see why there should not be a healthy rivalry among the different lawyers to publish good reports. Of course, after all it is for the readers, the lawyers and the judges to make the selection. In England I do not think there is any restriction on the publication of law reports nor is there any such restriction in countries where the Anglo-Saxon system of relying on cases prevails. I do not think there is any set of reports which publishes cases of the lower courts. There is a Chief Court at Karachi in Sindh for example, where they deal with matters of importance, Karachi being a great commercial centre. Myself as a Judge derived much benefit from some cases of the Karachi Chief Court. In the Nagpur Chief Court there are judgments written by eminent judges which are of a very high order. When our Anglo-Indian law is so vague, and so badly worded, and carelessly worded too, there is a need for the codification of laws. The more the reports of good cases the better, provided the selection of the best cases is done carefully. That is what is being done by most of the publishers. Lawyers and judges get only the best of the existing reports. It is true there are judges and judges."

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There are some judges who are so lazy that they do not want to go into the matter and they want no reports. It is a nuisance to them. Other judges who are anxious to do justice feel the more the reports of good cases the better for them. Personally I always welcomed the citation of cases as it helped much in writing judgments. Now we have got the Indian Law Reports. What is the use of this publication? They are published under the authority of Act XVIII of 1875. Therein it is provided that no court shall be bound to hear cited, or shall receive or treat as an authority binding on it, the report of any case decided by any of the said High Courts on or after the said day, other than a report published under the authority of the Governor-General in Council. Nothing herein contained shall be construed to give to any judicial decision any further or other authority than it would have had if this Act had not been passed. The distinction is very important. The last section provides that no judgment published by the authorities appointed by Government should have higher authority. That is, the judges therefore can rely upon cases other than those reported in the law reports. As a matter of fact if you go through the judgments of the High Court you will see many of the cases relied upon are not from the law reports. The law reports are printed in big type and they have reported cases very late. So the judges have to go to the other reports and are obliged to have a copy of the private reports. Therefore we have to feel thankful to the publishers of the several law reports in India. Why should then Government incur this extravagant expenditure for publishing reports at the cost of several thousand rupees? Then there is the establishment. The reporting is given to some junior barrister without any practice. He takes his time very leisurely and as soon as the reports appear in the private publications these people take them for official report. In the Bombay Presidency I have known cases of gentlemen who publish reports privately holding the appointment of assistant reporter and drawing his pay from Government for helping the officer in publishing the Indian Law Reports. At the same time he publishes his own private report."

* The hon. the PRESIDENT :—"I am not able to understand what an assistant reporter in another Presidency has to do with the motion here."

* Mr. J. A. SALDANHA :—"I am referring to the extravagance and the belated nature of our reports. The expenditure is simply a waste. Therefore if Government wants a standardization of reports they should not publish reports so late. A belated report is simply superfluous, unnecessary and an extravagance. Therefore I propose that Government on the Treasury Bench should make up their minds soon on this matter. There is no obligation under this Act to publish official reports. It simply says that no court shall be bound by a case which is not reported."

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"I think we can very well abolish these official reports and leave it to the Government of India to standardize the law reporting. The standard edition may be brought about without having an official agency."

* Mr. K. V. R. SWAMI :—"What my learned Friend Mr. Ramayomayajulu wanted was standardization of law reports. My hon. Friend Mr. Saldanha has no objection for that but he says no money should be spent by Government but the work may be left to a private agency. I do not know how it is to be worked out at all. What is the object of standardization? All sorts of reports are published by private agencies and the subordinate

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courts and subordinate magistracy are sometimes confused by the conflicting decisions. There is a lot of law reporting and it is not possible to discriminate between one report and another. If they are brought up to date and then standardized under some authority, all these difficulties would be avoided. Sometimes in a case several reports are quoted, which are often conflicting. Even Sindh Court decisions are cited. This sort of thing often puts the private parties to considerable expenditure. Relying on the out-of-the-way rulings appeals are preferred and lost, and large sums of money are spent in litigation. So the desire of my hon. Friend Mr. Ramasomayajulu is not that any particular agency should be appointed or particular steps should be taken, but that all the rulings should be standardized so far as this Presidency is concerned. The means to be employed and the expenditure to be incurred can safely be left to their Lordships of the High Court. They may have their own way of doing things; it is not proper for us to dictate to them. All this House wishes is to recommend to their Lordships of the High Court to find out a way to standardize all the rulings."

Mr. D. THOMAS :—"Mr. President, Sir, I have great pleasure in supporting the motion of Mr. Ramasomayajulu regarding the standardization of law reports. The multiplicity of law reports is wearying to the flesh, and it tends to make our system of law absolutely lawless. For a simple case, a lot of decisions are picked up and cited.

"Mr. Saldanha said that it may be left to the public to standardize these law reports, and patronize only such law reports as contain good rulings. As a matter of fact we find a large number of law reports on the market and the legal practitioner has to buy all the publications, because any decision from any of these reports, which may not be after all a standard one, may be sprung upon him. So that all the decisions which appear, with reference to any particular matter, have to be considered and the practitioner has to read all these rulings. I will give a practical instance of the difficulties I have experienced. In the new Criminal Procedure Code of 1923, in the amended form, there is a provision under section 162 with regard to the grant of copies in the trial of police cases. With reference to that, various decisions of various High Courts have appeared in various provinces. Some of them are of a most conflicting and contradictory character. I know, in actual practice, that these rulings and decisions on the interpretation of section 162 have given a good amount of trouble to the subordinate magistracy and have led to a considerable waste of public time in the courts of the subordinate magistrates. So I agree with my hon. Friend Mr. Swami that standardization is necessary but the means by which that should be done can be left to the High Court. The High Court will see what decisions should be reported and what should not. They may leave it to a private agency. But what we as members of the House desire to place on record is that standardization would be valuable both for the public and for the practitioners, and besides it would tend to reduce the conflicting decisions and contradictions in law and also save the time of the courts."

* The hon. Mr. A. Y. G. CAMPBELL :—"Mr. President, Sir, the position as regards the reporting of cases is that under the Act XVIII of 1875, to which my hon. Friend Mr. Saldanha referred, no court is bound to hear cited or to receive as an authority binding on it the report of any case decided

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by any of the High Courts other than a report published under the authority of the Governor-General in Council. In the Madras Presidency certain law reports are published under the authority of the Governor in Council under that Act. For the purpose of preparing the publication a law-reporting staff is appointed consisting of an editor and three reporters. The editor holds office for five years but may be reappointed at the end of five years. The reporters are appointed for three years at a time. The staff works under the supervision of a council consisting of a Judge of the High Court, the Advocate-General, one other member of the bar, one solicitor and one vakil. The Judge, the member of the bar and the solicitor and the vakil are appointed by the Chief Justice. Mr. Saldanha said that reporting can best be done by lawyers and I think that these arrangements meet his point.

"There are in addition three or four un-official law reports published in this Presidency the compilers of which receive, by the courtesy of the High Court, certain privileges, such as permission to copy judgments, peruse record and obtain printed copies of judgment on payment. In 1917, this Government requested the High Court not to grant, save in exceptional circumstances, further facilities to the publishers of un-official law reports. The general trend of the discussion this afternoon has been in favour of the restriction of the number of un-official law reports, and I may say the Government has adopted the same policy in the past. (A voice: 'We want standardization.') The hon. Mr. Ramasamayajulu referred to the Bill now before the Assembly introduced by Moulvi Muhammad Yaqub Sahib. That, I believe, is to be circulated by the Assembly for remarks. That Bill would limit the publication of un-official reports, as it provides that no court shall allow to be cited or itself refer to the report of any case unless it is an authorized report. Only the decisions included in the official reports could then be cited.

"Mr. Saldanha appears to think that the law reporting is very expensive. The editor receives Rs. 450 a month and each reporter gets a monthly allowance of Rs. 250; and there are two clerks in addition. A reporter has to attend the courts and take notes of all full bench cases. I do not think it can be said that these men, considering the importance of their duties, are paid very highly.

"With reference to Mr. Saldanha's remarks about the delay in publication, he did not cite any particular case where there was avoidable delay. I will however have the matter examined in the Secretariat. The supervision of the literary work and editing rests with the council constituted for the purpose, but the Local Government is responsible for all the arrangements in respect of printing and publication. I do not know to what extent there have been any delays and to what extent the Government is responsible to them. We will take steps to prevent avoidable delays for which the Government may be responsible. If there has been any delay for which the council appears to be responsible, the attention of the council will be invited to the matter."

* Mr. K. KOTI REDDI:—"Mr. President, Sir, I really had no idea to speak on this motion, but after hearing the Law Member I am tempted to say a few words. I do not believe the Law Member has really understood what exactly is meant by standardization for which this motion has been brought. I do not really believe that all of us are enamoured so much of

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[Mr. K. Koti Reddi]

official law reports. Every one of us feels that the various law reports are so voluminous that besides the vast amount of money one has to spend in purchasing them one is amazed at the energy necessary for hunting the decisions in them. But that does not really mean that we are in favour of official law reports. What we really want is this : that some agency, whether Government or non-official, ought to be established for the publication of law reports which alone should be cited in courts of law. The learned Law Member no doubt cited the law that the judges need not refer to law reports which are not authorized ; but as a matter of fact, in every court, particularly High Court, no judge is averse to receiving information from judgments which are not published in official law reports but are appearing in non-official reports.

“ As a matter of fact the law reports published by the Government are really not as good as they ought to be. The reporting really is very bad and all sorts of decisions are sometimes found reported in official reports. Sometimes the decisions appear very late as compared with their appearing in other non-official reports. I do not think the House is in favour of restricting the opportunities of non-official reports as at present, unless the reporting in the official reports is done much better than at present. I do not think it is really desirable to restrict non-official reports at present but it is really a danger to allow all sorts of people to report. Law reporting has become not a duty undertaken for the public welfare, but it seems to me it has become more a commercial concern. Any number of firms of lawyers who may not find any other scope for their talents, are taking to this and are trying to get the earliest opportunity of getting reports published. As a matter of fact we see advertisements saying that their reports alone are the best and that the decisions reported in their reports do not find place in any other report and so on. Besides it is not enough as my hon. Friend Mr. Swami said that the whole thing should be left to the High Court. As a matter of fact I don't think it is possible that this could be done without some legislation or other. No judge can refuse a certified copy of a judgment which can be published. As a matter of fact judges are not averse to receive information from unofficial reports. What is really necessary seems to be that a council of lawyers with some experience and judges with a serious intention of seeing that only the decisions which lay down or explain a principle of law of some importance and not mere facts which are important only from the point of view of the client must be set up. At present, I do not think that the council which has been appointed for the purpose has any serious intention of supervising and controlling over the reporting that is ordinarily done by the official staff. There is no doubt, that the official reports at present are not very good, but still there is necessity for seeing that this reporting is done by one agency and one agency alone. Whether such an agency is to be official or un-official, or both official and un-official, it is for future consideration, but there is the urgent necessity that reporting should be done by one agency alone and that only judgments which are of some importance and where some principle of law has been laid down should be reported. It is for that purpose this motion is brought.”

* The hon. the PRESIDENT :—“ The question is to reduce the allotment of Rs. 6,30,900 for High Courts by Rs. 100.”

The motion was put to the House and lost.

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* Mr. J. A. SALDANHA :—" I move

' to reduce the allotment of Rs. 90, 100 for Presidency Magistrates by Rs. 100 '

" This is to suggest the appointment of an Indian Christian as Presidency Magistrate from among qualified and fit vakils or Mufassal Magistrates.

" In moving this I only plead for communal justice. We are very glad that not only a Muhammadan has found a place in the Presidency Magistrate's Court, but he has been appointed Chief Presidency Magistrate. In all this cry for Muhammadans being appointed to the High Court, to the Small Cause and to the Presidency Magistrate's Courts we find no voice raised by anybody for the appointment of Indian Christians. The fact that no appeal has been made or no agitation exists for such an appointment does not mean that we Indian Christians are indifferent to these appointments. On the other hand we are particularly anxious to see that a larger number of Indian Christians should find a place in the Judicial Departments. We Christians are not fond of agitation but that should not be interpreted to mean that we are not conscious of our merits and of our deserts for appointments in the services. It is well known that after the Brahman community, the Indian Christians stand higher than any other community so far as not only elementary education, but higher education, is concerned. For every one Muhammadan we have got ten at least, though our number is less in education progress. If you take the degrees, whether M.L., B.L. or B.A. we Indian Christians stand ten to one Muhammadan and yet where is the justice done to our claims for appointments. I refer only to this particular aspect of the question, because this subject has been so much agitated recently. In the Judicial Department we are very poorly represented. Of course, it is true we have got one judge of the High Court, but there has never been any Indian Christian in the Presidency Magistrate's Court. There was one gentleman appointed and he has been sent to the City Civil Court and he has no prospect of ever becoming a Chief Presidency Magistrate. I think it is a gross injustice done to that gentleman. We hope that our claims will be duly considered by Government and borne in mind."

Mr. D. THOMAS :—" Mr. President, Sir, I have great pleasure in supporting the motion of my hon. Friend Mr. Saldanha. As my hon. Friend has pointed out, the Indian Christians are represented in all educational activities. They are probably one of the best educated communities in the Presidency and proportionate to their numbers they possess a larger number of higher educated men than any other community except perhaps the Brahmans. A good number of them are also in distinguished public service as Deputy Collectors, First-class Magistrates and also judges in the judicial service and yet it is strange that though a number of them have been seen exercising the powers as First-class Magistrates and though a number of them are employed as District Munsifs and Sub-Judges and also Judges of the City Civil Court, not one of them has at any time been appointed to a permanent tenure of Presidency Magistrate. I hope in the peculiar conditions of this country the Indian Christian is specially fitted to discharge judicial functions. He belongs to a minority community and he maintains friendly relations with all the communities in the country. Under those circumstances when judicial decisions have to be made in which the generality of the people who come before the courts belong to other communities

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than his own, he will be in a position to discharge his duties in an absolutely dispassionate and impartial manner and I believe several members would bear out the statement that several Indian Christians who have been working as Deputy Collectors and First-class Magistrates in discharging their functions in a commendable manner have earned the approval and approbation of the Government. Under these circumstances, I believe it is but bare justice to the Indian Christian community that one of them should at as early a date as possible be appointed as Chief Presidency Magistrate."

* The hon. Mr. A. Y. G. CAMPBELL :—" Mr. President, Sir, the object of this motion is to ask that an Indian Christian should be appointed as Presidency Magistrate. I am sure it is well known to all Members of this House that Government do take communal considerations into account to some extent in making appointments; but I think it is also recognized that it is not possible to give a definite promise that the member of a particular community will be appointed to a particular post at the earliest opportunity. No doubt, however, the Law Member will give this question his best consideration, as he has always done, in making appointments. Whether it is possible in the near future to make such an appointment or not, I am not in a position to say."

* Mr. J. A. SALDANHA :—"In view of the assurance given by the hon. the Law Member, I beg to withdraw the motion."

The motion was by leave withdrawn.

* Mr. J. A. SALDANHA :—" Mr. President, Sir, I move

'that the allotment of Rs. 63,06,200 for Civil and Sessions Courts be reduced by Rs. 100.'

"This is to criticise justice delays and costliness.

"Sir, this is a cry and it does not require a lot of dissipation to bring home to the Members of this House how much the poor people suffer on account of justice delays and costliness. I will not dwell at length on the higher aspect of the question of codification of our laws on right lines, because until the angle of vision of our rulers and the public completely changes as to the condition of codification of laws on the right lines, it is merely a cry in the wilderness. The codification of laws as is done on the Continent, for instance in France and in Germany, is so carefully done by the legislatures that there is no need of law reports at all, because the law is so clear in the codes that any ordinary man can understand it and they don't require very learned judges and pleaders to explain the bearing of any section.

"But, Sir, first of all we have got very little of codification. Secondly, 3-45
the codification is generally very imperfectly done and carelessly too. Hence P.m.
arise all sorts of doubts in the interpretations. That means increased expenses, increase of courts and increase in the number of judgments and High Court Judges and Privy Council Judgments and the multiplication of Law Reports. I would appeal to the Advocate-General to study the system in Germany and France and other countries and you would see that if you adopt the system of a practical nation like Germany, we will have no need of an India Law Reports. We will have a decrease in the number of Judges, Law Courts and Law Reports. All that will make for the less expense of

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our litigation. That is, I fear, however, a cry in the wilderness. We do not get men with a high angle of vision who will study the various systems obtaining in the other countries of the world. I think I shall have to cry hoarse for ever and there will be no remedy for all that. But I will, Sir, refer to the defects which can be cured even now, under the present system, if measures are taken to stop the delays and decrease the cost.

"My friend, Mr. Karant, has another motion on this subject, to question the necessity of the frequent postings of suits in mufassal courts on account of the consequent hardship to the litigant public. That motion, in fact, affirms what defects there are in the courts in South Kanara alone, not to speak of other places. If a Judge of the High Court had taken care to visit the mufassal courts which is not now generally done in this Presidency, it would have done much good. I have never known nor heard of a Judge of the Madras High Court coming to inspect the courts in the mufassal. That system of High Court Judges visiting mufassal courts and finding out what delays occur and why, in the disposal of cases, would have enabled them to find out the defects which could be easily cured. In the Bombay Presidency, the mufassal courts are visited by Special Judges in turns in every three or four years. They go through the files or the records of the cases decided even by the humblest judicial officer and after going carefully through these files they find out what are the causes of the delay. The result is that the sub-judges and the district munsifs are very careful in disposal of suits quickly, methodically and thoroughly. The High Court has also passed a number of circulars to prevent delay and suggesting more efficient methods in the courts and the result has been really very good, as I know from my own personal experience.

"It was pointed out from time to time that in very many instances delays could have been avoided. At present, Sir, what happens, for instance, in the Court of Mangalore is this. A number of cases are posted in a certain week without making sure or at least ascertaining approximately whether they would be or could be taken up or not in that week and there comes the hearing of the cases. But hardly 10 per cent of the cases,—the bigger cases which have been posted for that week, are reached. The other 90 per cent are shoved back to some other later date without even taking care to see that they could be taken up then. No consultation is held by the Judge with the pleaders or the parties to the suit. Perhaps, a statement of the case is taken up and indiscriminately cases are posted to some date or other without making sure previously whether they could be taken up on that date or not. In the Bombay Presidency, *sine die* lists are used, and it can be very well adopted in these courts also. When you have an accumulation of work in these courts, and the court, after consulting the vakils and parties in a case thinks it unlikely that the case can be taken up for six weeks after its filing and after it is finally ready for disposal, it is put on the *sine die* list. The number of these cases sometimes mount up to a large number. But there is then the satisfaction to the litigant public that these cases will not be taken up within that period and so they can stay at home and then come again in time and the pleaders can take proper care. When the list goes on accumulating the cases are taken up according to the certainty of their being disposed of.

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“Then, Sir, another point to be borne in mind is that the parties should be examined at the very first instance, especially in the bigger cases, so that the contentions are reduced to a minimum. Let a Judge take the trouble as soon as the case is put in, and defence entered, to examine the original parties and the points at issue will then be reduced considerably in that case. The result is that a case can be disposed of more quickly. These are a few of the reforms, which I think are necessary in order to reduce delays in litigation. It is therefore necessary that the High Court should appoint a Judge to go round the courts, at least the District Courts, and there get the files of the Sub-Courts and the Munsif Courts and see how these delays arise and how they can be remedied and issue clear instructions and circulars in order to provide for the remedies. I hope, Sir, that I am not trespassing on the patience of the House (laughter) but this is a very serious matter for the people. If I am standing here to-day speaking with some vigour it is because I know this is a thing which affects so many thousands of poor people. The inconvenience, the worry and the suffering caused to the witnesses and the parties coming again and again, not once but ten times, not only inflicts unnecessary trouble on these people but increases the cost of litigation. The sooner these things are mended the better. Under the present system the remedies can be found and must be found and if this is not done, I believe, the delays and the costliness of litigation will go on increasing and the discontent of the people will not have been removed.”

* Mr. C. V. VENKATARAMANA AYYANGAR. —“Sir, I have also given notice of a similar cut, and I agree with Mr. Saldanha in saying that this is a very important question, which can bear any amount of repetition. The question of delays in the disposal of suits and execution petitions is becoming scandalous over and over again. The Government went through the farce of appointing a costly committee which toured through the whole country and submitted its report with the result of being sent into the Secretariat Record Room (Hear, hear). Although the Government of India pretends to pass one Act to-day and another Act one year hence, dealing with the minor points touched by this Committee, the delay in the disposal of suits and petitions is becoming more and more scandalous. I do not think that any particular portion of the machinery can be made responsible for this though it must be admitted that the Judges as well as Members of the Bar are to no little extent responsible. The Government have recently adopted what is sometimes mistaken, a policy of appointing additional judges wherever there are arrears with the result that a Munsif or a Sub-Judge has only to show arrears for an Assistant being given to him. There is no responsible rule which restricts the number of suits that should be disposed of either by way of quality or quantity, with the result that all big suits are adjourned several times. If we go to a court, we will see that although the Munsifs and Sub-Judges take care to show a certain amount of disposal, we will clearly see that big suits and long-standing suits are somehow or other adjourned day after day. Very few big cases are disposed of unless by chance, they are compounded or compromised. It is therefore necessary, Sir, that the Government should do something to see that the suits are disposed of as early and as quickly as possible. About 20 years ago, the Munsifs and the Sub-Judges took care that there were not many suits for over one year pending and if we compare the number of courts then existing with those existing now, there can be no doubt that the present number is very large compared with the

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previous number. And yet, if we go through the arrears list, we will see that every court will have some suits pending not only over one year but over four or five years and so on. The one great fault is that the power of making rules is now in the hands of the High Court, which with due deference to the learned Judges of the High Court, does not know much of the difficulties in the mufassal. One of the reasons, of course as has been well pointed out is that the High Court Judges have too much work there to have time left to tour round the province to know the difficulties. If they only tour round the province and have private talks with the members of the Bar and the Munsifs and the District and Sub-Judges, they will find out the real reasons for the delays. There are now several rules, harassing rules as it were, which insist upon particular lines of procedure which are unnecessary but which have to be adopted in the disposal of suits. The classification of suits as contested is only nominal, as a suit is considered to be a contested one even though the defendant may say that the interest is penal, because it is at the rate of Rs. 1-5-0 instead of Rs. 1-4-0 because it may be that the defendant only says that he has paid a small sum of money by way of interest which has not been duly given credit to by the plaintiff. All these cases come under the category of contested suits and the officers who are there at the time of the disposal of the suits take credit for them for having disposed of so many contested suits. I think some committee must be appointed by the Government including some members of the Bar in the mufassal and some Judges both in the mufassal and of the High Court to go into the question of simplifying the procedure.

4 p.m.

“ There are several similar motions, Sir, for instance, the one regarding execution petition. If it is a mortgage decree, we have to go through so many processes, first having a preliminary decree, then a final decree, then so many applications for which notices are to be given to every person appearing as a party. There may be several defendants and parties *pro forma*, and in the case of every petition such as for fixing the day of the sale, for giving permission to bid, for doing so many similar things, we have to give notices to every one, and some Judges and Munsifs consider it necessary to see that all the defendants are personally served. What is the result, Sir? As has been said very well, the difficulty of a decree-holder begins after getting the decree. He gets the decree of course with some difficulty, but the real difficulty is only after he gets the decree; and the man who gets the decree begins to realize the difficulty only afterwards; because people can pretend not to be served personally. I know of cases where execution petitions to execute mortgage decrees have been pending for four or five years, the debtor all the time enjoying the land. Therefore, Sir, something should be done to simplify the rules so far as execution applications are concerned to see that no decree-holder is unnecessarily harassed, and to make sure that no fraud is committed to defeat the claims of real owners of properties.

“ Another point I wish to refer to is about the mufassal official receivers. Under the old practice, separate receivers were appointed for separate insolvency cases. Now, for the whole district, there is practically only one official receiver. In our own district, Sir, where the ryots have studied the insolvency law very carefully, every one after filing his insolvency application can easily prolong the matter for several years. And whenever a man now-a-days in our district, ordinarily speaking, goes to borrow money from somebody, he takes care to read the insolvency law, so that after some time he can

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file his insolvency application. And the official receiver who has probably to deal with a large number of applications nowadays, is not naturally able to do anything really useful; so much so if a list is taken—I once applied for a list but I was not able to get it although I was promised one—for the Coimbatore district of the number of insolvency applications that have been closed by payment of money, the number will not be a large one. Of course in good many cases, there are no assets and therefore the creditors get nothing; but if we take a list of cases where really assets are collected and a substantial portion of the claims is paid to the creditors, I am sure that such a list will not be satisfactory. If, on the other hand, we look into the list, we will be able to find cases pending for years together, four or five years, and yet Government are careless as regards the disposal of such important matter. I drew the attention of the Law Member once by asking him to consider the desirability of appointing permanent full-time official receivers. I quoted the authority of the official receiver of my own district, who when he gave evidence before the Laws Delays Committee clearly stated that the official receiver should be a full-time person. I can satisfy the Government, Sir, that so far as my district is concerned,—I take it that the facts are similar in other districts as well—there can be easily three or four permanent official receivers who will have plenty of work to do. This is a matter that should be carefully gone into. The reason why business and credit have suffered in districts like Coimbatore is that the administration of the insolvency law is not quite all right. People have no confidence now to have money dealings, and every bank in our place has got large sums of money in cash. As a matter of fact, Sir, some banks are going into liquidation, after paying back the shareholders and depositors their moneys. All this is because the official receivers have not been able to dispose of the cases before them and there has been delay in their disposal. Delay in the disposal of cases means giving room for fraudulent actions on the part of unwilling judgment-debtors and others. I therefore appeal to the Government to consider this very serious matter affecting the trade and business of the country and appoint a committee, not to go through the whole country, but to go to some important centres in this province where they can study this question and take early steps to put an end to the inordinate delay in the disposal of such cases. Unless some such thing is done, the delay will go on increasing, the number of pending cases will go on increasing, and the dissatisfaction of the people will be greater, resulting in discontent and disaffection. I would appeal, Sir, to the present Law Member, and if I can, to the Advocate-General who, I hope, will be able to give his experienced views on this matter, so that we can have the benefit of his experience. Then we will be able to know what the Government propose to do, as we are not satisfied with the steps said to have been taken as a result of the recommendations of the Laws Delays Committee, which amount to nothing."

* Mr. K. R. KARANT :—" Mr. President, Sir, two hon. Members have already spoken at length on this subject, and I do not propose to take much time of the House. On the question of the frequent posting of suits in the mufassal, I wish to bring to the notice of the Government the great deal of trouble caused to the litigant public. In reply to questions asked by me some time ago, it was stated by the Government that the matter was referred to and was primarily within the jurisdiction of the High Court.

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I do not think, Sir, that this is quite a satisfactory answer. When the Government are taking as much as $11\frac{1}{4}$ per cent of court fees from the litigant public and are making thereby a good deal of money, it is no use telling us and telling the public that they have delegated or entrusted these matters to the High Court. I wish to say, Sir, that in the case of suits especially suits tried in the mufassal courts—not so much in the case of appeals—the postings of suits are quite frequent, and I wish that the Government appoint a committee or otherwise deal with this matter and see that suits are not posted so often. The result of frequent postings is that even in the case of very small suits, the cost of summoning witnesses every time, especially with the high scale of batta now obtaining, goes above the valuation of the suit itself; and secondly, there is so much harassing of the parties. Every three weeks suits are posted, and I wish that some system is introduced, just as they have it in the High Court, of having a ready board, or as suggested by the hon. Mover of this motion, of having a *sine die* list, i.e., list of suits which are not likely to be taken up until suits which are ready are disposed of.

“There is another point which I wish to bring to the notice of the Government and of this House, and that is that some change is needed in the recruitment to the judiciary of the mufassal. Though it will not be to the best of taste to reflect anything on the subsidiary judiciary—which I do not wish to do—I wish to say this, that things will be very much better than what they are if a different method of recruitment to the subordinate judiciary is adopted. We find now, Sir, that those who go out as District Munsifs are generally persons with very little practice in the bar and very often their influence and other considerations get them the office rather than sheer merit. Hon. Members may not be unaware that we have even heard of lots being taken in the case of certain candidates. I wish only to say that the administration of justice would be very much improved if persons who have got considerable standing at the bar and have a really good practice are taken as judges, say, at the age of 40 years, and are entertained in service for about ten or fifteen years and given a decent salary. The salary that is now given to the judiciary is quite good compared with the income of practitioners in the mufassal. I therefore suggest that instead of taking persons with barely three or four or five years’ standing—and most of them not having any real practice at all—if you take persons between the ages of 35 and 40 with a good standing at the bar and who have some practice in the mufassal courts or in the High Court, and if you try them for a period of ten or fifteen years, it would be very much better, and justice will be much better dispensed with in the mufassal courts than at present.”

* Mr. C. R. PARTHASARATHI AYYANGAR :—“Mr. President, Sir, so far as criminal cases are concerned, they are disposed of as quickly as possible. Moreover, there is a rule in the mufassal courts to constitute magistrates and form a panel of three or four retired officials; so that criminal justice is properly administered and cases are disposed of as quickly as possible. Why not the same experiment be tried so far as civil cases are concerned? So far as the civil cases are concerned, only subordinate judges are given small cause powers of a substantial amount for the purpose of disposing of cases. Why should we not try civil cases being entrusted to persons who have retired from service, the necessary power being given to them for disposing of such cases in a month’s time or so? There are many cases where

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retired Deputy Collectors have disposed of cases without much delay. I know personally that several retired Deputy Collectors have been disposing of criminal cases for 15 or 20 years. I would suggest that some experiment ⁴⁻¹⁵ be made so far as the civil cases are concerned by allotting a number of money suits in small areas among persons who have retired from service so that they might utilize the knowledge they have gained in service for the benefit of the country. By doing so there is no fear of a large number of cases being posted day after day. Persons who have had experience may be nominated and an opportunity be given to try civil cases just as they are now trying criminal cases. So that all simple money suits may be disposed of by them. Even small land suits may be given to them. Just as they are trying criminal cases where the liberty of the person is at stake why not give them simple money suits, such as suits on promissory notes involving plea of discharge, failure of consideration and so on? I would suggest to the Government to try this experiment first before referring the matter to a committee."

* Rao Bahadur C. V. ANANTHAKRISHNA AYYAR :--" Mr. President, Sir, we are indeed alive to the saying 'that justice delayed is justice denied' and that was the reason why a few years back the Government of India appointed the Civil Justice Committee. You are aware that one of the Members of that Committee was a distinguished lawyer of our Presidency. That Committee travelled all through India collecting evidence on all matters relevant to the discussion before this House. Learned lawyers were invited to co-operate with the Committee to assist it with their memoranda and evidence, and that Committee has sent a very valuable report; and the same is being examined by the several departments of the Government of India. We know that very many of the recommendations of the Civil Justice Committee have been incorporated in the form of separate Bills with a view to make the necessary amendments to the respective Acts concerned. Such of the hon. Members of this House as are members of the bar will be aware of the recent legislative activities in this respect. We have had the Civil Procedure Amendment Acts, and more than that amendment of the Limitation Act as a result of the recommendations of the Civil Justice Committee—the result of these amendments being expediting the hearing of cases and avoiding of delays whenever possible. The hon. the Mover drew the attention of the House to the fact that in the mortgage suits, which by the way form a large number in the mufassal, the procedure seems to be cumbersome in some respects but that matter has been already taken up by the Civil Justice Committee. As a result of that, a Special Committee was recently appointed by the Government of India to consider the whole law relating to mortgages in British India, and some of you may have received communications from the Government of India requesting you to send your opinion on the Bill that the Special Committee has prepared. I have given my opinion on the matter and I may assure my hon. Friends that the many complaints that are heard against the procedure in the mortgage suits will not exist hereafter, after that Bill is passed.

"Hon. Members were saying that there are delays in the disposal of suits by the lower courts and that no effective check is being exercised by the superior authorities. I am sorry to say that the hon. Member is absolutely wrong. There are various checks imposed on the mufassal courts. They have to send quarterly reports, half-yearly reports and annual reports.

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(A voice : 'What of that?') And if any suit is more than one year old special explanation has to be submitted. So much so that the complaint that has been heard in some quarters is that the lower courts are being so much worried in the matter of sending these reports that sometimes they are forced to sacrifice quality for quantity. If there has been any particular delay with reference to any particular cases, there are Bar Associations which are growing in number and importance day by day; it is open to them to make proper representations and any representations that they make will be treated with respect and duly considered.

"Now one mode of attacking the question of arrears in the extra mufassal courts is by the appointment of additional and temporary courts and judges. My hon. Friend seems to object to them, stating that the effect of them is to encourage an inclination on the part of the permanent incumbents to turn out less than the usual standard of work, because he seems to think this practice encourages idleness. Having regard to the existing checks (already mentioned) to exact the proper amount of work from all judicial officers, I have no doubt that the contention of my hon. Friend is absolutely without foundation."

Mr. J. A. SALDANHA :—"I question it."

* Rao Bahadur C. V. ANANTHAKRISHNA AYYAR :—"The present Civil Procedure Code seeks to avoid all sorts of delays in the matter of serving notices in many respects. Whatever may be the charges against the old Civil Procedure Code, now by sending notices by registered post you can have the summons served expeditiously."

Mr. C. V. VENKATARAMANA AYYANGAR :—"But the courts seldom allow that."

* Rao Bahadur C. V. ANANTHAKRISHNA AYYAR :—"If you satisfy the court that personal service is reasonably impossible they will allow it. Further rules have been made in such a way that in cases where vakils appeared in the lower courts, service on them is enough in respect of cases pending in the appellate court. So that proper steps have been taken to expedite the disposal of cases as early as possible."

"It was said that the hon. Judges of the High Court do not do their duty in the matter of going to the mufassal and exercising proper personal supervision. If anybody feels regret at their not being able to effectively discharge this portion of their work it is the hon. Judges themselves. Anybody conversant with the state of the existing work in the High Court would appreciate that with the existing number they can't exercise this particular function more effectively. (Cries of Oh, oh.) You can't find fault with the hon. Judges for that. When they find time they will surely attend to it. (A voice : 'When do they expect that to happen?')

"Then again a charge was laid against the High Court Judges in the matter of appointment of the mufassal judicial officers and one hon. Member went so far as to say that such appointments were made by casting lots. I protest against that statement. It is nothing less than a slander. I have been a party to such appointments by the High Court very lately and I have been witnessing the appointments made for the last so many years. To say that appointments were made by casting lots is mere calumny. I would request my hon. Friend to withdraw that statement in justice to the High Court. I say that we should appreciate their work. I may

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mention that one of the Judges spent several weeks on this work and he received more than 400 applications in the matter of appointment of district munsifs. Having regard to these facts to say that such appointments were made by casting lots is doing absolute injustice to the officers concerned.

“Something was said about the Official Receiver. It is a new office which has existed only for the last dozen years or more. Formerly such work was done by the ordinary courts. It was because we heard complaints that such work was not properly done by the courts that this officer was appointed. Now we hear that this officer does not do his duty properly. If it is represented to the proper authorities that a full-time officer should be appointed, I am sure that such a representation would be duly consulted. But to say that a separate officer should not be appointed and at the same time to say that there are delays in disposal of insolvency matters is a contradiction in terms.”

Mr. C. V. VENKATARAMANA AYYANGAR :—“Why?”

* Rao Bahadur C. V. ANANTHAKRISHNA AYYAR :—“It was suggested that German procedure and German law should be studied. The complaint here is not that our law is not sufficient to meet the situation. We have got Indian law and Indian procedure. We have also English law and English procedure. Why should we go to German law and procedure? I can't understand. I don't think it will enable us in expediting the disposal of cases.

“Then as regards the appointment to the mufassal judiciary it is well known to hon. Members of this House that only B.A. B.L.'s in 99 cases out of 100 are appointed. They are having Court training before appointment. One cannot expect a busy lawyer of 15 years standing to accept a District Munsif's post and therefore to say that better hands are not appointed will be doing injustice to the authority concerned.”

* Mr. K. R. KARANT :—“Mr. President, Sir, on a matter of personal explanation. I am sorry the hon. the Advocate-General has misunderstood. What I said in regard to the selection of district munsifs is, very unsatisfactory. As regards the statement made by me it was not intended to be a calumny. I never made it with that intention. That was made on the information I had received.

“As, however, the Advocate-General has assured me to the contrary, I do not wish to say that my information is right. Anyhow I do say that a great deal of improvement is required and can be effected in the matter of the recruitment to the subordinate judiciary of this province.”

* Mr. K. V. R. SWAMI :—“Mr. President, Sir, the Advocate-General has taken pains to explain the various points raised here in the course of the debate, but I am sorry he was not able to appreciate them. He said that their Lordships of the High Court are doing their best; we are all aware of that. Our quarrel is not that their Lordships are not doing their best. The litigants want that the arrears should be cleared off so that there may not be so much cost for their litigation. By this time they must have known what provision should be made in order to clear off the arrears and begin with a clean slate.

“As regards mufassal courts, Mr. Karant made a suggestion to recruit lawyers with some experience to the Bench and keep them on for ten or fifteen

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years till the arrears are cleared off instead of having additional judges and munsifs as a permanent measure and instead of taking in young men who are just learning their work. The cases are pending for four years and five years and not less than three years in many cases. There is no difficulty in serving the other side. After everyone is ready, the court will have no time to take up the case. This is the difficulty ordinarily. It is not the desire of this House to hurry the judges of the High Court and make them care more for quantity than for quality. We are not for calling for monthly reports though there is a practice of calling for such reports. That would only drive the judges to finish their work as early as possible without giving sufficient time and thought to the cases and as a result the interests of justice will not be served. We do not want the High Court to hurry the judges of the mufassal courts. But some other arrangement satisfactory to their Lordships should be made to clear the arrears. A promise was made to this effect, but the arrears are still there. I hope that the Advocate-General would see that proper recommendations are made and the Law Member also would write to their Lordships and communicate to them the discussion that takes place here. We are not in any way suggesting that their Lordships are not doing their best; it is only to indicate to them that the litigants really feel the burden of the high cost of litigation caused by delays due to frequent postings extending to twenty, thirty, forty or fifty times. Special arrangements have to be made to put an end to this. Experienced lawyers may be recruited to the Bench and kept on for ten or fifteen years. The long pending litigation is ruining many families. There is no use of saying that everything possible is being done; this defence of their Lordships is not at all required. We are all aware of what is being done by their Lordships and the Subordinate Judges. More is required to satisfy the needs of the situation and that is what is submitted by the motion of my hon. Friend Mr. Saldanha."

* The hon. Mr. A. Y. G. CAMPBELL :—"I have listened with considerable interest to the discussion on the demand for Administration of Justice, especially dealing with mufassal courts. I feel that it is unnecessary for me to add very much to the remarks which have been made by the Advocate-General and which covered the whole ground traversed in the course of the debate. I am glad to observe that hon. Members recognize that the hon. the Judges of the High Court are doing their best to minimize the evils complained of and I may assure hon. Members that the Government and the High Court will continue to do what lies in their power to ascertain the extent of the evils and to minimize them in any way that seems feasible. I am sure that whoever is appointed as Law Member after me will make it his business to study the report of this debate and decide what action he should take upon it."

The question that the allotment of Rs. 63,06,200 for Civil and Sessions Courts be reduced by Rs. 100 was put to the House and declared lost. Mr. Saldanha demanded a poll and the House divided thus :—

Ayes.

1. Mr. S. Arpadaswami Udayar.
2. " Sami Venkatachalam Chetti.
3. " S. Satyamurti.
4. " C. V. Venkataramana Ayyangar.
5. " P. Anjaneyulu.
6. " J. A. Saldanha.

7. Mr. P. C. Venkatapati Raja.
8. " G. Harisaravottama Rao.
9. Abdul Hamid Khan Sabib Bahadur.
10. Mr. K. V. R. Swami.
11. " D. Narayana Raju.
12. Dr. B. S. Mallayya.

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Ayes—cont.

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| 13. Mr. K. Uppi Sahib. | 24. Mr. C. Marudavanam Pillai. |
| 14. " K. R. Karant. | 25. " K. Madhavan Nayar. |
| 15. " C. Obi Reddi. | 26. " C. Venkatarangam Nayudu. |
| 16. " A. Parasurama Rao Pantulu. | 27. " K. S. Sivasubrahmanya Ayyar. |
| 17. " C. Ramasomayajulu. | 28. " A. Ranganatha Mudaliyar. |
| 18. Basheer Ahmad Sayeed Sahib Bahadur. | 29. Diwan Bahadur R. N. Arogyaswami Mudaliyar. |
| 19. Mr. P. Bhaktavatsulu Nayudu. | 30. Mr. R. Nagan Gowda. |
| 20. " A. Kaleswara Rao. | 31. " C. R. Parthasarathi Ayyangar. |
| 21. " R. Srinivasa Ayyangar. | 32. " Chavadi K. Subrahmanya Pillai. |
| 22. " K. Koti Reddi. | 33. " K. R. Venkatarama Ayyar. |
| 23. " L. K. Tulasiram. | |

Noes.

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| 1. The hon. Sir Norman Marjoribanks. | 15. Mr. R. Foulkes. |
| 2. " Khan Bahadur Muhammad Usman Sahib Bahadur. | 16. " Abbas Ali Khan. |
| 3. " Mr. T. E. Moir. | 17. Subadar Major S. A. Nanjappa Bahadur. |
| 4. " Mr. A. Y. G. Campbell. | 18. Mr. K. Krishnan. |
| 5. " Mr. M. H. Seturatnam Ayyar. | 19. " N. Siva Raj. |
| 6. " Mr. S. Muthiah Mudaliyar. | 20. " M. V. Gangadhara Siva. |
| 7. " Dr. F. Subbarayan. | 21. Rao Sahib L. C. Guruswami. |
| 8. Rao Bahadur C. V. Ananthakrishna Ayyar. | 22. Mr. V. I. Muniswami Pillai. |
| 9. Mr. F. B. Evans. | 23. " W. P. A. Soundarapandiya Nadar. |
| 10. " H. A. Watson. | 24. " Daniel Thomas. |
| 11. " G. T. Boag. | 25. Rajkumar S. N. Dorai Raja. |
| 12. " A. McG. C. Tampoe. | 26. The Zamindar of Kallikota. |
| 13. " S. H. Slater. | 27. Swami A. S. Sabajanandam. |
| 14. " C. B. Cotterell. | 28. Mr. V. Ramjee Rao. |
| | 29. " P. J. Gnanavaram Pillai. |

Ayes 33. Noes 29.

The motion was carried.

* Mr. C. RAMASOMAYAJULU :—" Mr. President, Sir, I beg to move
'that the allotment of Rs. 63,06,200 for Civil and Sessions Courts be reduced by Rs. 100.'

"My object is to discuss the desirability of abolishing the practice of calling for monthly statements of disposal from subordinate judges and district munsifs.

"I must at the outset clear any misapprehension in the minds of hon. Members that this motion runs counter to the previous motion. Because as the Advocate-General has pointed out, calling for monthly and quarterly statements does not in any way expedite the disposal of the suits in the courts. On the contrary the practice has an undesirable effect on the judges. This puts them on the nerve in order to find out by shuffling process what suits are easily disposable and to dispose of them and adjourn the really difficult suits which would take a long time. The district munsifs and subordinate judges are recruited from the ranks of people who possess high academic degrees and we can expect them to have a high sense of duty. There is no use in merely egging them on, because it will have a contrary effect. It is not quantity alone that is required, but quality in the disposal of suits. In order to put an end to the bad effects caused by the system of calling for monthly statements the system must be put an end to.

"It is not at all a wholesome practice to call for monthly statements. I am therefore against this practice. The practice of calling for quarterly and half-yearly disposals has been in vogue for a number of years. This additional practice of calling for monthly statements from subordinate judiciary shows that there is suspicion against them. We have to take it

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that these people have got some sort of responsibility. I shall illustrate my statement by some instance. There are some cases which are likely to drag on for more than a month. Suppose the Sub-Judge is engaged in one such case. What is the sort of statement he is going to make at the end of the month? The necessity of monthly statements is likely to impel them to shove it aside and take up lightly disposable cases to the detriment of really valuable litigation work, which has no chance of being finished at all. Therefore heavier suits will go on rotting there and accumulating for years. I propose that this method should be discontinued altogether."

* Rao Bahadur C. V. ANANTHAKRISHNA AYYAR :—"Sir, the office has no information whether monthly statements referred to by the hon. Member are being called for. The High Court has got power under section 107 of the Government of India Act to call for returns and it is a matter within their own discretion whether the High Court would call for monthly returns or be satisfied with the other returns. The hon. Member was anxious to have speedy disposals. One of the modes by which speedy disposal can be gauged by the High Court is to call for frequent returns; if the monthly returns are objected to it is very likely to be mentioned that the lower courts sleep for $2\frac{1}{2}$ months and then wake up at the end of the period and towards the close of the quarter, they are very likely to take up small cases and dispose of them rather hurriedly. This system of calling for monthly statements, if it does obtain in the High Court, will keep lower courts in proper and regular activity and not allow them to do work by fits and starts. This is a matter within the discretion of the High Court and they are entitled under section 107 of the Government of India Act to make their own arrangements for discharging the duties of the High Court under that section."

* Mr. K. V. R. SWAMI :—"Sir, we are all aware that this matter is entirely within the rights of Their Lordships of the High Court. That is not the question which we want to discuss now. The point of view that is now urged is that we are compelling the subordinate judiciary to take up small cases by calling for the monthly reports and that the big cases are postponed from time to time. They are enjoined to show a certain number of disposals. In Sub-Courts and District Courts there are always big cases like partition suits and partnership suits, etc. They are all continuously being postponed from time to time and the parties have to wait for years and years. The Advocate-General's opinion seems to be that if there is no progress in big cases it does not matter. He says if we do not call for these reports the Subordinate Judges would be sleeping. That is the protection he gives in this House to the hardworked subordinate judiciary. They are very good people. They would look after their duties carefully. That ought to be the attitude of the Government. When a certain matter is brought to the notice of the Government by the Hon. Members of this House they must show some consideration to it and they must try to understand the view point that we express here and try to meet that view point as far as possible. There is no good of taking refuge behind the rules. We are aware that there are such rules. We are aware also that Their Lordships of the High Court have got full power and that they are using their powers in the best interests of the people according to their lights. That is not the question now. It is possible that Their Lordships do not know exactly what is happening. If the litigants have really got any grievances, remedies

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should be effected. Is there any meaning in saying that the subordinate judiciary are not doing their duties and that only Their Lordships of the High Court are attending to their duties? That is a very poor compliment to the subordinate judiciary. They are working day in and day out to the best of their ability. So we submit that no monthly reports need be called for so that the judiciary will devote their time to big cases also and show a sound state of things at the end of every quarter. That is really the point that was raised by the motion and I hope the hon. the Law Member will kindly represent this matter to the High Court. We do not want anything more. We are really representing what is taking place in the country. We are not casting any slur on Their Lordships. The Advocate-General need not be under any such misapprehension that any submission to the High Court is an interference with Their Lordships' jurisdiction or with their discretion. Nothing of the sort. What we request the hon. the Law Member is to represent to Their Lordships that no monthly reports need be called for. They have to take special care to see whether the subordinate judiciary are taking up big cases as well as small cases. That is the real point involved in the motion."

* Mr. R. SRINIVASA AYYANGAR:—"Mr. President, Sir, it is true that under the Government of India Act the High Court has got power to call for monthly statements. This system, if I remember right, came into vogue three years ago when the High Court taking into consideration the number of cases disposed of in the previous quinquennium fixed for each court the number of suits to be disposed of by it. Calling for monthly reports, far from attaining the object in view, seems to have a pernicious and unsatisfactory result upon proper and equitable administration of justice. Looking from a distance everything looks all right. What is the actual practice in the mufassal? The manner in which the enforcement of this system works is highly objectionable. As the hon. Mover has put it there is always a tendency to get hold of money suits and light suits to the detriment of heavy suits which are being adjourned from time to time either for want of time or for other considerations. There will always be a tendency to take up light suits in order to meet this departmental requirement.

"Not only that; there is one other matter to which advertence has not so far been made. In mufassal areas what is generally done is that adjournments are improperly refused and even cases are dismissed for default. Is it a satisfactory state of things? If necessary an inquiry may be started. I shall lay before the Government or before the Committee specific instances of serious miscarriage of justice. In some cases such miscarriage of justice has been set right on appeal and in other cases not. I can very well understand the existence of a rule which requires a minimum number of cases being disposed of in a quarter because a quarter embraces three months. Even if in a month he is not able to come up to the standard the judicial officer concerned may try to make it up in the succeeding month. To insist upon a given number being disposed of within a month is hardly a very satisfactory state of things. It is up to the hon. Advocate-General to communicate these proceedings to the High Court and if necessary advise the High Court that the time has come for doing away with the insistence of monthly returns which seems in the long run to produce results presumably not contemplated by the hon. the Judges of the High Court."

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* The hon. Mr. A. Y. G. CAMPBELL :—" Sir, I shall be glad to draw the attention of the hon. Judges of the High Court to the discussion regarding this subject. I am sure that the hon. Judges will give it their careful consideration."

The motion was, by leave, withdrawn.

Mr. K. R. KARANT :—" Sir, I move

'to reduce the allotment of Rs. 63,06,200 for Civil and Sessions Courts by Rs. 100.'

"I shall not take more than one minute of the time of the House. As a further illustration of delay in the courts I shall only mention that between the two courts of South Kanara, the District Court and the Sub-Court, we have 900 appeals pending now, of which 800 are more than six months old. That is the time-limit fixed by the High Court. There are 180 applications pending which are contested and posted from time to time. The Sessions Court is practically engaged with sessions. No civil work is ever done at all. I do not know why the Government do not give us a sub-court at least for six months so that delay may be avoided and arrears cleared up."

The hon. Mr. A. Y. G. CAMPBELL :—" Sir, inquiries will be made on the statements made by the hon. Member."

The motion was, by leave, withdrawn.

* The hon. the PRESIDENT :—" The question is that 'the Government be granted a sum not exceeding Rs. 85.13 lakhs minus Rs. 100 under Demand XIII—Administration of Justice'."

The motion was put to the House and carried and the grant made.

* The hon. the PRESIDENT :—" The House will now adjourn and reassemble to-morrow at 11 o'clock."

R. V. KRISHNA AYYAR,
Secretary to the Legislative Council.

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TRUTH ALONE TRIUMPHS